THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Kristi Lea Harrington, Circuit Court Judge

CASE NO. 2011-CP-10-1528

Cynthia McNaughton ..... Respondent,

v.

Charleston Charter School For Math And Science, Inc. .....Appellant.

RECORD ON APPEAL

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SC Court of Appeals

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-10-01528

Cynthia L. McNaughton

PLAINTIFF(S)

Charleston Charter School for Math and Science, Inc.

DEFENDANT(S)

Submitted by:	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

FILED
2012 JUN 22 PM 4:18
JULIE J. ARMSTRONG
CLERK OF COURT
BY

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: This Court finds that the jury rendered a verdict in favor of the Plaintiff in the amount of $94,735.00. A hearing regarding attorneys fees was held on June 19, 2012. This Court finds Plaintiff's Counsel is entitled to an award of attorney's fees pursuant to S.C. Code Ann. § 15-77-300, in the amount of $37,894.00. Furthermore, all post-trial motions heard following trial are respectfully denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Cynthia L. McNaugton	Charleston Charter School for Math and Science, Inc.	$132,629.00
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order: N/A

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge | 2151 Judge Code | 6/21/12 Date

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

Nancy Bloodgood

ATTORNEY(S) FOR THE PLAINTIFF(S)

Thomas Smith

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Anne Meyer

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Cynthia L. McNaughton, PLAINTIFF, v. Charleston Charter School for Math and Science, Inc. DEFENDANT.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO.: 2011-CP-10-01528 **ORDER GRANTING ATTORNEY'S FEES**

FILED
2012 JUN 22 PM 4:16
JULIE J. ARMSTRONG
CLERK OF COURT
BY

THIS MATTER IS BEFORE THE COURT upon Plaintiff's Counsel's request for attorney's fees, pursuant to S.C. Code Ann. § 15-77-300. A hearing regarding attorney's fees was held on June 19, 2012 at which Nancy Bloodgood, Esquire, was present on behalf of the Plaintiff, and Thomas Smith, Esquire was present on behalf of the Defendant. Upon review of the Plaintiff's Memorandum in Support of Attorney's Fees, the Defendant's Memorandum Opposing Award of Attorney's Fees to Plaintiff, applicable case law, and the arguments of counsel, this Court GRANTS Plaintiff's request for attorney's fees for the reasons set forth below.

FACTUAL BACKGROUND

The Plaintiff was employed as a teacher for seven years in Florida before working in the private sector in graphic design. After deciding to leave her career in graphic design, the Plaintiff enrolled in the South Carolina Department of Education's Program for Alternative Certification for Educators (PACE) which allows people who have worked in other fields to become certified to teach in South Carolina. The Plaintiff was accepted into the PACE program as an inductee teacher, and thereafter signed an Employment Agreement to teach art at the

6/21/12

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Charleston Charter School for Math and Science (hereinafter "Charleston Charter School") for the 2011-2012 school year. The Agreement stated it was contingent on enrollment and funding. It is undisputed that there was no decrease in funding and the Plaintiff's performance was excellent while employed with the Charleston Charter School.

In December of 2010, the principal of the Charleston Charter School ceased the employment of the Plaintiff and an additional math teacher was hired. The Plaintiff's Complaint alleged four causes of action: breach of contract, breach of contract by fraudulent act, third party breach of contract, and grossly negligent supervision against the Defendant. The Defendant claimed that there was insufficient funding to continue Plaintiff's employment. Thus, because the contingency clause in the contract was met, Defendant alleged it was entitled to end the Plaintiff's contract.

A jury trial was held in this case on June 4 and 5th, 2012 in the Court of Common Pleas for Charleston County, and a verdict was returned for the Plaintiff in the amount of $94,735.00 on the Plaintiff's claim for breach of contract, the sole cause of action before the jury.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Charleston Charter School for Math and Science as a State Entity

S.C. Code Ann. § 15-77-300 provides, in relevant part, that:

> (A) [i]n any civil action brought by the State, any political subdivision of the State or any party who is contesting state action, unless the prevailing party is the State or any political subdivision of the State, the court may allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:
> (1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and
> (2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

In granting an award of attorney fees under § 15-77-300, as a preliminary matter, the Court must

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find that the Defendant is a State entity. Under S.C. Code Ann. § 59-40-40(1), *amended by* Act 274 of 2006, a "charter school" is defined as follows:

> a public, nonreligious, nonhome-based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which grants its charter.

Furthermore, under S.C. Code Ann. § 59-40-40(2)(a), a Charter School is:

> for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District, the local school district in which it is located, or is sponsored by a public or independent institution of higher learning.

Lastly, pursuant to S.C. Code Ann. § 59-40-50, a Charter School

> must be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District, the local school district in which the charter school is located are relieved.

When read together, this Court finds that a Charter School is considered a public school for purposes of state law and the state constitution. Accordingly, for purposes of analysis under S.C. Code Ann. §15-77-300, the Charleston Charter School shall be considered a state entity and subject to the provisions of § 15-77-300.

II. <u>Analysis Under S.C. Code Ann. § 15-77-300(A)</u>

Finding that S.C. Code Ann. § 15-77-300 applies to the Charleston Charter School, the Court must next determine if an award of attorney's fees under the statue is appropriate. S.C. Code Ann. § 15-77-300(A) sets forth three requirements that must be established for the court to allow recovery of reasonable attorney's fees: (1) the contesting party must be the prevailing

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party, (2) the court must find that the agency acted without substantial justification in pressing its claim against the party, and (3) the court must find that there are no special circumstances that would make an award of attorney's fees unjust. S.C. Code Ann. § 15-77-300(A); Heath v. County of Aiken, 302 S.C. 178, 182, 394 S.E.2d 709, 711 (1990). In Heath v. County of Aiken, looking to the United States Supreme Court's decision in Pierce v. Underwood, 487 U.S. 552, 108 S.Ct. 2541 (1988) as a guide, the South Carolina Supreme Court expounded on the appropriate application of each of the three factors. Heath v. County of Aiken, 302 S.C. 178, 394 S.E.2d 709 (1990).

In determining whether a party to the action is a prevailing party, the Heath Court stated,

> a party need not be successful as to all issues in order to be found a prevailing party. A prevailing party has been defined as the one who successfully prosecuted the action or successfully defends against it, prevailing on the main issue, even though not the extent of the original contention and is the one in whose favor the decision of verdict is rendered.

Id. at 182-83, 394 S.E.2d at 711. In this case, a verdict was rendered in the Plaintiff's favor on the breach of contract claim. Under the definition of a prevailing party as set forth above, this Court finds that the Plaintiff is considered the prevailing party.

Second, in considering whether the Charleston Charter School acted without substantial justification in pressing its claim, the South Carolina Supreme Court in Heath quoted the Pierce decision, stating that in the context of attorney's fees the definition of a substantial justification "does not mean justified to a high degree, but rather justified in substance or in the main— that is justified to a degree that could satisfy a reasonable person." Id. at 183, 394 S.E.2d at 712. Furthermore, "in deciding whether a state agency acted without substantial justification, the relevant question is whether the agency's position in litigating the case has a reasonable basis in law and fact." McDowell v. S.C. Dept. of Soc. Servs., 304 S.C. 539, 542, 405 S.E.2d 830, 832

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(1991). Although the agency's loss on the merits does not create a presumption that the position was not substantially justified, "the outcome of the matter eventually litigated" is relevant to the issue of substantial justification. Id. at 184, 394 S.E.2d at 712; Layman v. State of South Carolina, 376 S.C. 434, 658 S.E.2d 320 (2008).

In this case, The Defendant argues that because the Plaintiff's employment contract was contingent on ongoing funding, it had the authority and substantial justification to transfer funds first designated to the Plaintiff's salary to hire a new math teacher. After listening to the testimony presented during the case, the arguments of counsel, the evidence presented, and considering the jury's findings, this Court concludes that the Charleston Charter School was not substantially justified in pressing its claim as there was no reasonable basis in law or fact on which to defend the Plaintiff's breach of contract claim.

Lastly, the Court must determine whether any special circumstances exist which would make an award of attorney's fees unjust in this case. The Defendant argues that special circumstances exist because that the Charleston Charter School's principal sought advice from a board member as to whether it could legally "switch" the funding from one teacher's position to add a math teacher. In response, the attorney advised that there were no legal problems. Furthermore the Defendant noted the drop in its student's math scores, the contingency in the Plaintiff's employment contract for ongoing funding, and the letters of recommendation the School provided to the Plaintiff as addition reasons special circumstances exist in this case.

After considering the arguments of Defendant's Counsel, and upon review of the Plaintiff's Memorandum in Support of Attorney Fees, the Defendant's Memorandum Opposing Award of Attorney's Fees to Plaintiff, applicable case law, and the arguments of counsel, the

Court finds no special circumstances exist that would make an award of attorney's fees unjust in this case.

III. Analysis Under S.C. Code Ann. § 55-77-300(B)

After finding an award of attorney's fees appropriate under S.C. Code Ann. § 15-77-300(A), § 15-77-300(B) states:

> Attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:
> (1) the nature, extent, and difficulty of the case;
> (2) the time devoted;
> (3) the professional standing of counsel;
> (4) the beneficial results obtained; and
> (5) the customary legal fees for similar services.
> The judge must make specific written findings regarding each factor listed above in making the award of attorney's fees. However, in no event shall a prevailing party be allowed to shift attorney's fees pursuant to this section that exceed the fees the party has contracted to pay counsel personally for work on the litigation.

Plaintiff's Counsel has spent 134.10 hours on this case, which would total fees in the amount of $40,230.00 at her usual $300.00 per hour billing rate. However, S.C. Code Ann. § 15-77-300(B) states that "in no event shall a prevailing party be allowed to shift attorney's fees pursuant to this section that exceed the fees the party has contracted to pay counsel personally for work on the litigation." Plaintiff and her attorney signed a retainer agreement stating that the agreed upon legal fee would be forty percent of the gross amount recovered. Forty percent of the jury's award of $94,735.00 equals $37,894.00. The 134.10 hours spent on preparation and in the trial of this case in relation to forty percent of the award, $37,894.00, computes to an hourly rate of $282.58. In determining whether this rate is reasonable, the Court will address each factor separately pursuant to the requirements set forth above.

A. The Nature, Extent, and Difficulty of the Case

As to the nature, extent, and difficulty of the case, Plaintiff's Counsel indicated that a

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lawsuit against a school is difficult as schools enjoy a good reputation in the community and are respected as employers. The original Complaint had four causes of action, and the Plaintiff survived summary judgment on all causes of action before trial. Plaintiff's Counsel also noted the difficulty in preparing for this case because most of the witnesses called were employees of the Charleston Charter School and were therefore loyal to the school. Plaintiff's Counsel informed the Court that she took six depositions and became familiar with the PACE and ADEPT programs and the Charter School laws in preparation for this case. In light of these facts, the Court finds the nature, extent, and difficulty of this case favor an award of attorney's fees in the amount Plaintiff's Counsel has requested.

B. Time Devoted

Plaintiff's Counsel indicated to the Court that employment cases require long and intense hours, with great risk of no payment, or, at best, late payment. The Complaint in this case was filed in February of 2011 and was tried sixteen months later. After review of Plaintiff's Counsel's billing statement, the Court finds that a reasonable amount of time was spent on each task over the sixteen month period in which trial preparation was conducted. Plaintiff's Counsel has spent a total of 134.10 hours on this case, which the Court finds adequately relates to the nature and difficulty of the case.

C. Professional Standing of Counsel

In review of the professional standing of Plaintiff's Counsel, this Court finds the work product, preparation, and general ability of Plaintiff's Counsel to be exceptional. Plaintiff's Counsel received her Juris Doctor in 1983 form Catholic University School of Law, and has been in practice for more than twenty five years. The Court has had many opportunities to view

Plaintiff's Counsel's work and finds that she is of good professional standing and is a respected member of the South Carolina Bar.

D. Beneficial Results Obtained

The judgment the Plaintiff received is higher than the range of outcomes that were offered outside of trial. Defendant filed an offer of judgment before trial for $150.00, and the Defendant made its first offer to settle on the second morning of trial in the amount of $10,000.00. The jury awarded the plaintiff $20,623.00 in actual damages and $74,112.00 in special damages. As the total verdict of $94,735.00 is nine times more than what was offered to settle the case, the Court finds the results obtained to be beneficial.

E. Customary Legal Fees for Similar Services

Last, the Court must consider the customary legal fees for similar services. Plaintiff's Counsel's Affidavit states that her routine hourly rate is $300.00 per hour. Plaintiff's Counsel provided the Court with an Affidavit from other counsel, Armand Derfner, a graduate of Princeton University, Yale Law School, and member of the South Carolina Bar since 1974, regarding the reasonableness of Plaintiff's Counsel's requested fee of $300.00 per hour in a case tried and won in November of 2011. Armand Derfner indicated that this rate is reasonable and quite modest for a lawyer of Plaintiff's Counsel's experience, reputation and ability. Armand Derfner indicated that he is familiar with other lawyers with similar experience in the State who charge $300.00 per hour or higher, and stated that an award to Plaintiff's Counsel for that case was is in line with or less than appropriate rates in this State.

As calculated above, Plaintiff's Counsel's hourly rate for this case pursuant to the contract is $282.58. Based on Plaintiff's Counsel's level of experience, her consistency in

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charging a $300.00 rate to clients, and similar rates charged by comparable attorneys in the State, the Court finds Plaintiff's Counsel's rate in this case is reasonable and customary.

Therefore, upon applying the factors listed in S.C. Code Ann. § 15-77-300(B), the Court finds an award of attorney's fees for Plaintiff's Counsel at the requested rate is reasonable and appropriate.

CONCLUSION

THEREFORE, IT IS HEREBY ORDERED THAT Plaintiff's Counsel, Nancy Bloodgood, is entitled to an award of attorney's fees pursuant to S.C. Code Ann. § 15-77-300 in the amount of $37,894.00.

IT IS ORDERED.

The Honorable Kristi Lea Harrington
Presiding Judge, Ninth Judicial Circuit

June 21, 2012
Charleston, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2011-CP-10-01528
Cynthia L. McNaughton,	)	
	)	
PLAINTIFF,	)	
	)	
v.	)	
	)	
Charleston Charter School for Math and Science, Inc.	)	
	)	
DEFENDANT.	)	
	)	

VERDICT

1. On the cause of action for Breach of Contract, we the Jury find for the Defendant, Charleston Charter School for Math and Science. _____

OR

2. On the cause of action for Breach of Contract, we, the Jury, find for the Plaintiff, Cynthia L. McNaughton, in the amount of

$ 20,623 actual damages.

$ 74,112 special damages.

I certify that this decision is the unanimous decision of the jury.

Foreperson

June 05, 2012

WHEN YOU HAVE COMPLETED THE QUESTIONS, NOTIFY THE BAILIFF.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2011-CP-10- _____
Cynthia L. McNaughton,	)	
	)	
PLAINTIFF,	)	
	)	**COMPLAINT**
v.	)	**JURY TRIAL REQUESTED**
	)	
Charleston Charter School for Math and Science, Inc.,	)	
	)	
DEFENDANT.	)	

FILED
2011 FEB 28 PM 3:03
JULIE J. ARMSTRONG
CLERK OF COURT
BY

The Plaintiff Cynthia L. McNaughton complaining of the Defendant Charleston Charter School for Math and Science, Inc. alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of the County of Charleston, State of South Carolina.

2. Defendant Charleston Charter School for Math and Science, Inc., (hereafter "Charter School") is a non-profit charter school established pursuant to the South Carolina Charter School Act of 1996, S.C. Code S.C. Code § 59-40-40 *et seq.*, which maintains offices and conducts business in Charleston County.

3. All actions pertinent to the allegations in this Complaint took place in Charleston County.

4. Six weeks after Plaintiff filed a grievance regarding her termination Defendant is still investigating Plaintiff's allegations and has not decided whether to grant Plaintiff a hearing.

5. Defendant's failure to take prompt action regarding Plaintiff's grievance is evidence of the futility of continuing to pursue Defendant's grievance process. Further, by the

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time Defendant finishes investigating and deciding whether to have a hearing, the school year will be almost over, and there will be no possibility of reinstatement.

6. Jurisdiction and venue is proper in this Court.

FACTS

7. On August 5, 2010, Plaintiff was employed by Defendant Charter School as a full-time art teacher for the school year 2010-2011. (Employment Agreement attached as Exhibit A)

8. Plaintiff was the only art teacher employed by Defendant Charter School.

9. Per the terms of Plaintiff's Employment Agreement, Plaintiff's employment was contingent upon funding and enrollment as well as meeting certification and other requirements to teach designated courses.

10. All of the contingencies in the Employment Agreement were met prior to the time Plaintiff began teaching art courses full-time in August of 2010.

11. Plaintiff's salary for the 2010-2011 school year was approximately $34.000.00.

12. On December 2, 2010, Plaintiff was presented a letter signed by Defendant Charter School's principal stating the Charter School's students were doing poorly in math and that Plaintiff's employment would end December 17, 2010 because "we do not have the funding to keep you and hire the additional math teacher for our students."

13. Per the Charter School's charter application (hereafter "Charter Application"), the terms of which create contractual obligations per S.C. Code § 59-40-60 (A), Defendant Charter School's Employee Handbook is part of Plaintiff's Employment Agreement.

14. Per Defendant Charter School's charter application (hereafter "Charter Application"), the terms of which create contractual obligations per S.C. Code § 59-40-60 (A), electives for 6th, 7th and 8th grades will include art.

15. Per the Charter Application, the terms of which create contractual obligations per S.C. Code § 59-40-60 (A), electives for high school students include Art I, *Introduction to Art* and Art II, *Dimensional Design: Sculpture and Ceramics*.

16. Per the Charter Application, the terms of which create contractual obligations per S.C. Code § 59-40-60 (A), an art teacher for middle and high school is an anticipated teaching position at Defendant Charter School.

17. Per the Charter Application, the terms of which create contractual obligations per S.C. Code § 59-40-60 (A), Defendant Charter School's Board must approve any recommendations regarding hiring of teachers made by the principal and use a formal evaluation process when an employment decision is made concerning a teacher.

18. Upon information and belief, no formal evaluation process was utilized by Defendant Charter School's Board before a new math teacher was hired mid-year.

19. Upon information and belief, no formal evaluation process was utilized by Defendant Charter School's Board before Plaintiff was terminated.

20. Per "The Teacher Employment and Dismissal Procedure" in the Charter School's Charter Application and Employee Handbook, the reasons a teacher can be terminated include substance abuse, insubordination, bad attitude, poor performance, theft, threats and weapons in the workplace, harassment, absenteeism and tardiness, misuse of property, fraud, dishonesty and false statements, violations and/or lack of enforcement of school rules, and breaching confidentiality.

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21. It is undisputed that none of these above stated reasons for discipline and/or termination apply to Plaintiff.

22. Plaintiff received no written disciplinary warnings from the School preceding her termination.

23. Defendant's Charter School's Charter Application and Employee Handbook contain no provisions for, or criteria concerning, a "lay off."

24. Upon information and belief, Defendant Charter School's Board did not vote to have a "lay off" on or before December 2, 2010.

25. Defendant Charter School's principal provided Plaintiff with a letter of recommendation after her termination which stated, "It was very upsetting to lose [Plaintiff] from my faculty as she is an all around good person and team player. I knew I could count on her for anything from designing an ad for our school to starting up an Art club. Any school that is able to benefit from [Plaintiff's] compassion and talent will be lucky."

26. Defendant Charter School's principal acts through the authority delegated to her by Defendant Charter School's Board, and speaks on behalf of the Board as its dominant corporate officer.

27. Defendant Charter School's principal has admitted in writing that Plaintiff had an employment contract.

28. Defendant Charter School's principal stated a false reason for the alleged reason for Plaintiff's termination after Plaintiff grieved her termination- that Plaintiff was laid off.

FIRST CAUSE OF ACTION
(WRONGFUL TERMINATION/ BREACH OF CONTRACT)

29. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

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30. Defendant Charter School breached Plaintiff's Employment Agreement by terminating Plaintiff's employment without cause or substantial justification on December 2, 2010, and refusing to pay Plaintiff the remainder of the consideration due to her under the employment agreement, equaling approximately $18,567.

31. As a result of Defendant Charter School's breach of Plaintiff's Employment Agreement, Plaintiff has suffered actual and consequential damages.

32. Plaintiff seeks actual and consequential damages, costs, attorney fees pursuant to S.C. Code § 15-77-300, and post judgment interest for Defendant Charter School's wrongful breach of her Employment Agreement.

SECOND CAUSE OF ACTION
(BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT)

33. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

34. Defendant Charter School's breach of Plaintiff's employment contract was done with fraudulent intent and accompanied by fraudulent acts contemporaneous with its breach, including, but not limited to: changing the Charter School's curriculum in violation of the Charter Application mid-way through the school year; using Plaintiff's designated salary funds to hire and pay a different teacher; "exchanging" funding in order to support the Charter School's contention that there was a lack of funding to justify Plaintiff's wrongful termination; not following its faculty evaluation, termination and hiring policies; calling Plaintiff's termination a "lay off"; and not having a reasonable grievance procedure.

35. The fraudulent intent relating to the breach of the Employment Agreement is evidenced by the circumstances surrounding the breach.

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36. As a result of Defendant Charter School's fraudulent acts, Plaintiff has suffered damages in the form of lost back and future wages, lost income and benefits, severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, physical injuries, and further seeks the costs of this action, attorney fees pursuant to S.C. Code § 15-77-300, and post judgment interest.

THIRD CAUSE OF ACTION
(THIRD PARTY BENEFICIARY BREACH OF CONTRACT)

37. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

38. Defendant Charter School is accountable to the Charleston County School District's board of trustees per S.C. Code § 59-40-40 (1).

39. Defendant Charter School must be administered and governed in a manner agreed upon by it and the Charleston County School District's board of trustees per S.C. Code § 59-40-40 (2) (c).

40. The terms of Defendant's approved charter application constitute a contract (the "contract") between Defendant Charter School and the Charleston County School District's board of trustees per S.C. Code § 59-40-640 (A).

41. Material revisions to the contract may be made only with the approval of Defendant Charter School and the Charleston County School District's board of trustees per S.C. Code § 59-40-60 (C).

42. Plaintiff as a teacher with rings under the contract is an intended third party beneficiary of the contract between the Charleston County School District and Defendant Charter School.

43. Defendant Charter School has breached its contractual obligations with its sponsor, the Charleston County School District in the following manner:

a. by failing to properly implement and follow the ADEPT (Assisting, Developing and Evaluating Professional Teaching) program (Reg. No. R-43-205.1);

b. by failing to offer an art elective as stated in the contract;

c. by failing to review teacher performance criteria;

d. by failing to require its principal to develop a system for on-going evaluation of teacher performance and professional development that is linked with measurable results;

e. by not retaining an art teacher;

f. by not requiring its principal to follow its teacher employment and dismissal procedures; and

g. by not following its grievance policy.

44. Plaintiff has been harmed by Defendant Charter School's breach of its contractual obligations to the Charleston County School board of trustees.

45. Plaintiff seeks actual and consequential damages, costs, attorney fees pursuant to S.C. Code § 15-77-300, and post judgment interest as a third party beneficiary for Defendant Charter School's wrongful breach of its contract with the Charleston County School District.

FOURTH CAUSE OF ACTION
(GROSSLY NEGLIGENT SUPERVISION)

46. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

47. Defendant Charter School has a contractual duty under its governing documents to teach the humanities to ensure that all students receive a well-rounded education and to engage in a formal evaluation process before hiring and firing teachers.

48. Defendant Charter School has a contractual duty under its governing documents and state law to adhere to the terms of its Charter application and it can only materially revise its terms with the prior approval of its sponsor, the Charleston County School District.

49. Defendant Charter School owed a duty to Plaintiff to ensure she was treated in accordance with the School's Charter Application, its Employee Handbook, and state law.

50. Defendant Charter School owed Plaintiff a duty to ensure employment decisions affecting her were made in a fair and rational manner and in accordance with Defendant Charter School's Charter Application and Employee Handbook and it acted grossly negligently, recklessly, disingenuously and without substantial justification in permitting its principal to terminate Plaintiff's employment.

51. Defendant Charter School was grossly negligent in permitting its principal to ignore the provisions of its Charter Application and Employee Handbook when she terminated Plaintiff and then permitting the principal to attempt to justify Plaintiff's wrongful termination as a "lay off" when the Charter School has no "lay off" policy or procedures, the School's Board never voted for a "lay off," and the School's Charter Application grants ultimate authority to hire and fire teachers to the Charter School's Board.

52. Defendant Charter School was grossly negligent in failing to require its principal to abide by its contractual obligations to Plaintiff and to the Charleston County School Board as stated in its Charter Application and Employee Handbook.

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53. As a result of Defendant Charter School's gross negligence and/or recklessness in the oversight of its principal, Plaintiff has suffered damages in the form of lost back and future wages, lost income and benefits, severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, physical injuries, and seeks the costs of this action, attorney fees pursuant to S.C. Code § 15-77-300, and post judgment interest.

Wherefore, Plaintiff respectfully requests this Court grant Plaintiff the damages requested herein, as well as such other relief as the Court deems appropriate, including an award of attorney fees pursuant to S.C. Code § 15-77-300.

Nancy Bloodgood

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Lucy C. Sanders, SC Bar No. 78169
FOSTER LAW FIRM, L.L.C.
3875 Faber Place Drive, Suite 204
North Charleston, SC 29405
Telephone: (843) 744-7828
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Email: nbloodgood@fosterfoster.com

Attorneys for Plaintiff

Charleston, South Carolina

Date: 2-24-11

CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE

EMPLOYMENT AGREEMENT
2010-2011

Cynthia McNaughton agrees to be a full-time teacher at Charleston Charter School for Math and Science for the school year 2010–2011. The salary will be the same as for Charleston County School District teachers for the given years of service and degrees on the teaching certificate; or if the teacher is not certified, as determined by the CCSMS principal.

The requirements of employment include attendance at staff meetings which shall be scheduled before, during, or after the period of school attendance; attendance at all open houses and other school functions; communication with parents through conferences and other means; the timely preparation of reports on students; and other such functions as assigned and spelled out in the Employee Handbook.

Said employee should be familiar with and comply with the general, educational, and personnel policies of the school as amended from time to time. By signing this agreement, the employee agrees to follow school policies.

The 2010-2011 school year will begin for staff on Wednesday, August 11, 2010 (students arrive on the following Wednesday, August 18). The proposed last day of classes for students is Thursday, June 2, 2011. Friday, June 3, 2010 staff will be available one full day after the last instructional school day for curriculum planning and report activity.

This employment agreement is contingent on funding and enrollment as well as the said teacher meeting certification and other requirements to teach designated courses.

I accept the terms of this appointment.

Employee: Cynthia McNaughton Date: 8/5/2010

Principal: Tamara Fischtein Date: 8/5/2010

Please sign and return both copies to the school principal as soon as possible. A signed copy will be returned to you for your records.

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Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
Cynthia L. McNaughton,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2011-CP-10-1528
	)	
Charleston Charter School for Math And Science, Inc.,	)	
	)	
Defendant.	)	
	)	

ANSWER OF CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE

COMES NOW Charleston Charter School for Math and Science (hereinafter referred to as "Defendant") and responds to Plaintiff's Complaint as follows:

FIRST DEFENSE

Defendant generally denies each and every allegation of Plaintiff's Complaint that would in any manner cause Defendant to be liable or responsible for the damages claimed by Plaintiff.

Defendant also denies each and every allegation of Plaintiff's Complaint except for those specifically admitted herein.

SECOND DEFENSE

Defendant responds to the specific allegations of Plaintiff's Complaint as follows:

1. Defendant admits the allegations in Paragraph 1.

2. In response to Paragraph 2, Defendant admits only that it is a non-profit charter

school established pursuant to the South Carolina Charter Schools Act of 1996 and that it conducts business in Charleston County. Defendant denies the remaining allegations in this Paragraph and demands strict proof thereof.

3. In response to Paragraph 3, Defendant admits only that venue is proper in Charleston County. Defendant denies Plaintiff's allegations of wrongdoing and that any such wrongful acts allegedly committed by Defendant occurred anywhere and demands strict proof thereof.

4. In response to Paragraph 4, Defendant admits only that it has a written employee grievance policy, that Plaintiff filed a grievance pursuant to such written policy and that Defendant has properly administered such grievance. Defendant denies the remaining allegations of Paragraph 4 and demands strict proof thereof.

5. Defendant denies the allegations in Paragraphs 5 and demands strict proof thereof.

6. Defendant admits the allegations in Paragraph 6.

7. In response to Paragraph 7, Defendant admits only that it hired Plaintiff as a full-time teacher pursuant to the terms of the Employment Agreement attached to the Complaint as Exhibit A. Defendant denies the remaining allegations of Paragraph 7 and demands strict proof thereof.

8. Defendant denies the allegations in Paragraph 8.

9. Defendant admits the allegations in Paragraphs 9.

10. In response to Paragraph 10, Defendant admits only that Plaintiff was hired as a teacher pursuant to the terms of the Employment Agreement and that pursuant to such Employment Agreement only as long as Defendant had funding for Plaintiff's position would Plaintiff be employed. Defendant denies the remaining allegations of Paragraph 10

and demands strict proof thereof.

11. Defendant admit the allegations in Paragraphs 11 and 12.

12. In response to Paragraphs 13, 14, 15, 16 and 17, Plaintiff admits only that art is an elective for students and that an art teacher is an anticipated teaching position. Defendant denies the remaining allegations of Paragraphs 13-17 and demands strict proof thereof.

13. Defendant denies the allegations in Paragraphs 18 and 19 and demands strict proof thereof.

14. In response to Paragraph 20, Defendant admits only that the enumerated reasons for discharge include but are not limited to those reasons listed by the Plaintiff. Defendant denies the remaining allegations of Paragraph 14 and demands strict proof thereof.

15. In response to Paragraph 21, Defendant admits only that the reason for Plaintiff's contract termination was because funding for her position was no longer available. Defendant denies the remaining allegations of Paragraph 21 and demands strict proof thereof.

16. Defendant admits the allegations in Paragraph 22.

17. In response to Paragraph 23, Defendant admits only that all of the reasons for discharge of a teacher or terminating a teacher contract are not included in the Charter Application or the Employee Handbook. Further, Defendant affirmatively states that Plaintiff is no longer employed because a contingency in her Employment Agreement, funding for the position, was no longer available. Defendant denies the remaining allegations in Paragraph 23 and demands strict proof thereof.

18. Defendant denies the allegations in Paragraph 24 and demands strict proof thereof. Defendant further states that its Board unanimously consented to terminating Plaintiff's

Employment Agreement due to lack of ongoing funding for the position.

19. Defendant admit the allegations in Paragraph 25.

20. In response to Paragraph 26, Defendant admits only that its principal acts with that authority given to her by Defendant's Board. Defendant denies the remaining allegations of Paragraph 26 and demands strict proof thereof.

21. In response to Paragraph 27, Defendant admits that Exhibit A to Plaintiff's Complaint is the contract between Plaintiff and Defendant. Defendant denies the remaining allegations of Paragraph 27 and demands strict proof thereof.

22. Defendant denies the allegation in Paragraphs 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37, and demands strict proof thereof.

23. Plaintiff alleges only legal conclusions in Paragraphs 38, 39, 40, and 41, which for purposes of this lawsuit Defendant denies all allegations in these Paragraphs, demands strict proof thereof and affirmatively states it is the Court's determination of the laws that apply in this matter and not Plaintiff's determination.

24. Defendant denies the allegations in Paragraphs 42, 43 (including subparts), 44, 45, 46, 47, 48, 49, 50, 51, 52 and 53, and demands strict proof thereof.

THIRD DEFENSE

Plaintiff's teaching contract was contingent on ongoing funding for the position, which funding was lost.

FOURTH DEFENSE

South Carolina Tort Claims Act, Business Judgment, Plaintiff cannot recover in tort for a contract claim.

Respectfully submitted this 1st day of April, 2011.

Thomas Bailey Smith, Esq.
S.C. Bar No. 066246
Attorney for Defendant

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tsmithlawfirm@aol.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
Cynthia L. McNaughton,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2011-CP-10-1528
	)	
Charleston Charter School for Math And Science, Inc.,	)	
	)	
Defendant.	)	
	)	

FIRST AMENDED ANSWER OF CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE

COMES NOW Charleston Charter School for Math and Science (hereinafter referred to as "Defendant") and responds to Plaintiff's Complaint as follows:

FIRST DEFENSE

Defendant generally denies each and every allegation of Plaintiff's Complaint that would in any manner cause Defendant to be liable or responsible for the damages claimed by Plaintiff.

Defendant also denies each and every allegation of Plaintiff's Complaint except for those specifically admitted herein.

SECOND DEFENSE

Defendant responds to the specific allegations of Plaintiff's Complaint as follows:

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3. In response to Paragraph 3, Defendant admits only that venue is proper in Charleston County. Defendant denies Plaintiff's allegations of wrongdoing and that any such wrongful acts allegedly committed by Defendant occurred anywhere and demands strict proof thereof.

4. In response to Paragraph 4, Defendant admits only that it has a written employee grievance policy, that Plaintiff filed a grievance pursuant to such written policy and that Defendant has properly administered such grievance. Defendant denies the remaining allegations of Paragraph 4 and demands strict proof thereof.

5. Defendant denies the allegations in Paragraphs 5 and demands strict proof thereof.

6. Defendant admits the allegations in Paragraph 6.

7. In response to Paragraph 7, Defendant admits only that it hired Plaintiff as a full-time teacher pursuant to the terms of the Employment Agreement attached to the Complaint as Exhibit A. Defendant denies the remaining allegations of Paragraph 7 and demands strict proof thereof.

8. Defendant denies the allegations in Paragraph 8.

9. Defendant admits the allegations in Paragraphs 9.

10. In response to Paragraph 10, Defendant admits only that Plaintiff was hired as a teacher pursuant to the terms of the Employment Agreement and that pursuant to such Employment Agreement only as long as Defendant had funding for Plaintiff's position would Plaintiff be employed. Defendant denies the remaining allegations of Paragraph 10

and demands strict proof thereof.

11. Defendant admit the allegations in Paragraphs 11 and 12.

12. In response to Paragraphs 13, 14, 15, 16 and 17, Plaintiff admits only that art is an elective for students and that an art teacher is an anticipated teaching position. Defendant denies the remaining allegations of Paragraphs 13-17 and demands strict proof thereof.

13. Defendant denies the allegations in Paragraphs 18 and 19 and demands strict proof thereof.

14. In response to Paragraph 20, Defendant admits only that the enumerated reasons for discharge include but are not limited to those reasons listed by the Plaintiff. Defendant denies the remaining allegations of Paragraph 14 and demands strict proof thereof.

15. In response to Paragraph 21, Defendant admits only that the reason for Plaintiff's contract termination was because funding for her position was no longer available. Defendant denies the remaining allegations of Paragraph 21 and demands strict proof thereof.

16. Defendant admits the allegations in Paragraph 22.

17. In response to Paragraph 23, Defendant admits only that all of the reasons for discharge of a teacher or terminating a teacher contract are not included in the Charter Application or the Employee Handbook. Further, Defendant affirmatively states that Plaintiff is no longer employed because a contingency in her Employment Agreement, funding for the position, was no longer available. Defendant denies the remaining allegations in Paragraph 23 and demands strict proof thereof.

18. Defendant denies the allegations in Paragraph 24 and demands strict proof thereof. Defendant further states that its Board unanimously consented to terminating Plaintiff's

Employment Agreement due to lack of ongoing funding for the position.

19. Defendant admit the allegations in Paragraph 25.

20. In response to Paragraph 26, Defendant admits only that its principal acts with that authority given to her by Defendant's Board. Defendant denies the remaining allegations of Paragraph 26 and demands strict proof thereof.

21. In response to Paragraph 27, Defendant admits that Exhibit A to Plaintiff's Complaint is the contract between Plaintiff and Defendant. Defendant denies the remaining allegations of Paragraph 27 and demands strict proof thereof.

22. Defendant denies the allegation in Paragraphs 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37, and demands strict proof thereof.

23. Plaintiff alleges only legal conclusions in Paragraphs 38, 39, 40, and 41, which for purposes of this lawsuit Defendant denies all allegations in these Paragraphs, demands strict proof thereof and affirmatively states it is the Court's determination of the laws that apply in this matter and not Plaintiff's determination.

24. Defendant denies the allegations in Paragraphs 42, 43 (including subparts), 44, 45, 46, 47, 48, 49, 50, 51, 52 and 53, and demands strict proof thereof.

THIRD DEFENSE

Plaintiff's teaching contract was contingent on ongoing funding for the position, which funding was lost.

FOURTH DEFENSE

South Carolina Tort Claims Act, Business Judgment, Plaintiff cannot recover in tort for a contract claim.

PLAINTIFF HAS FAILED TO MITIGATE HER DAMAGES.

Respectfully submitted this 5TH day of March, 2012.

Thomas Bailey Smith, Esq.
S.C. Bar No. 066246
Attorney for Defendant

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OR COMMON PLEAS
2011-CP-10-01528

CYNTHIA McHAUGHTON,

Plaintiff,

V.

CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE,

Defendant.

TRANSCRIPT OF RECORD

June 4 - 5, 2012
Charleston, South Carolina

B E F O R E:

THE HONORABLE KRISTI HARRINGTON, JUDGE

A P P E A R A N C E S:

Ms. Nancy Bloodgood, Esquire
Representing the Plaintiff

Mr. Thomas Bailey Smith, Esquire
Representing the Defendant

Anne Bouley Meyer, RPR
Circuit Court Reporter

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I N D E X

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EXHIBITS

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1	Resume for Plaintiff: In Evidence	67:11
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3 & 4	Employment Agreement for Plaintiff: In Evidence	73:10
5	Confirmation of Employment for PACE for Plaintiff: In Evidence	74:9
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THE COURT: Mr. Smith, you need to place something on the record?

MR. SMITH: May it please the Court. The plaintiff in this case is a school teacher in the public school system, Charleston County, before she was laid off. And for the purposes of striking the jury we would ask the Court to strike for cause any juror or potential juror who is or has been a teacher in Charleston County.

THE COURT: Okay. I deny your request. We will address each juror on a case-by-case basis. And I will give you the chance at the appropriate time.

Anything before we bring in the jury?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Mr. Smith?

MR. SMITH: No, Your Honor.

THE COURT: Let's bring in the jury. Thank you.

Until we have finally selected, you don't need to stand for the jury panel until we have the panel brought back in.

(Whereupon, the jurors enter the courtroom.)

THE COURT: Good morning again, ladies and gentlemen. Again I'm Judge Kristi Harrington, I will be presiding over this case. Ladies and gentlemen, if you were protected for Thursday and Friday, please

raise your hands.

And your juror number?

A JUROR: 61.

THE COURT: All right. Please remember I anticipate that we will be done with testimony, but no later than tomorrow afternoon. And so the likelihood of going into Wednesday evening, afternoon is very small.

Is there anyone now that has a conflict before we continue?

Thank you, there are none.

Ladies and gentlemen, the case that we are selecting the jury for this morning is the case of Cynthia McNaughton versus Charleston Charter School for Math and Science Incorporated.

Yes, sir. Your juror number and name.

A JUROR: Juror number 100. I barely can hear you.

THE COURT: All right, then I'm going to move this microphone. I feel like I'm on stage or something, so I don't like to keep it too close. But if anybody can't hear me, thank you for letting me know.

Is that better?

A JUROR: That's better.

THE COURT: Thank you.

Ladies and gentlemen, does anybody know Ms. McNaughton or anything about the Charleston Charter School for Math and Science, if so please stand.

Please stand. Your juror number and name.

A JUROR: 199, Elizabeth Siebenbrunner. I was on the design team for the School of Math and Science. I just want to make sure that's okay.

THE COURT: All right. I'm not familiar with what a design team does.

A JUROR: I was the architect on the team.

THE COURT: All right. Is there anything about your involvement on the design team that is going to affect your ability to be fair and impartial in this case?

A JUROR: I don't think so.

THE COURT: All right. Remember I said I need yes or no? I need a yes or no.

A JUROR: No.

THE COURT: Will you be able to listen to the facts from the witness stand and apply the law as the Court gives it and render a verdict based only upon those things?

A JUROR: Yes.

THE COURT: And your juror number and name one

more time.

A JUROR: 199, Elizabeth Siebenbrunner.

THE COURT: Thank you.

Ladies and gentlemen, the brief factual summary of this case.

Well first of all, I'm going to introduce, Ms. Bloodgood, if you would please introduce yourself.

MS. BLOODGOOD: Thank you, Your Honor.

My name is Nancy Bloodgood, and I'm a partner in a law firm in Charleston called Foster and Foster. We have offices in Greenville also.

I represent Ms. McNaughton, she was a teacher at the charter school. And so we look forward to working with you.

THE COURT: Is there any member of the jury panel related by blood, marriage, close personal friend; ever have any business, personal or professional dealings with the plaintiff, Ms. McNaughton, or Ms. Bloodgood, if so please stand.

Thank you, there are none.

Mr. Smith, if you would please stand, introduce yourself, any persons that may be assisting you throughout your trial or will be seated with you.

MR. SMITH: Yes, Your Honor.

Good morning, my name is Tommy Smith. I have a

law office in Mount Pleasant. I represent the Charleston Charter School for Math and Science.

As our representative I have with me Dr. Tammy Kirshtein.

THE COURT: Is there any member of the jury panel related by blood, marriage, close personal friend; ever have any business, personal or professional dealings with anyone involved with the Charleston Charter School or Mr. Smith, if so please stand.

Thank you, there are none.

Ladies and gentlemen, the plaintiff in this case signed an employment agreement to teach art at Charleston Charter School for Math and Science for the 2010/2011 school year. The agreement was contingent on enrollment and funding. In the middle of the school year, plaintiff's employment ended.

The plaintiff alleges breach of contract, breach of contract by fraudulent act, third party breach of contract, and grossly negligent supervision against the defendant.

The defendant claims there was insufficient funding to continue plaintiff's employment. Because the contingency clause in the contract was met, defendant claims it was entitled to end the plaintiff's

contract.

Is there any member of the jury panel that knows anything about this case other than what I have just read to you, if so please stand.

Thank you, there are none. Do you need some water?

A JUROR: I need to get away from where I am right now. I have asthma.

THE COURT: Do you need to leave the room or just stand?

A JUROR: Yes.

THE COURT: Okay. Your juror number and name.

A JUROR: Mary Warland, 234.

THE COURT: All right. How long will you need? I don't mean to be indelicate.

A JUROR: No, I just need to take a couple of puffs off my inhaler. There is some perfume around that seems to be setting me off.

THE COURT: If there is somewhere else that is better for you to sit, you may move. If you would please step outside and take care of that. We will be at ease for just a few moments.

If anyone needs to take a stretch break or anything of that nature, feel free to do so. We will await just a few moments.

(Whereupon, a recess was taken.)

THE COURT: Please let me know if you need further assistant. Thank you.

Ladies and gentlemen, now I'm going to read a list of potential witnesses who may be called to testify in this case. If you are related by blood, marriage, close personal friend, have any contact or knowledge of these individuals, when I call their name please stand.

Jason Allen. Caryn Vedane. Dr. Tammy Kirshtein. Kathryn Pedings-Behling. Gail Tolbert.

Anyone related by blood, marriage, close personal friend to any of those individuals please stand.

Thank you, there are none.

Ladies and gentlemen, is there any member of the jury panel who has a child, or a relative who has a child, or close family member who has a child, that attends a charter school in Charleston County, if so please stand.

Your child, or someone you know attend a charter school within Charleston County, if so please stand.

And I saw the crutches so if you need to remain seated, please let me know.

A JUROR: Pano Kordonis, juror 109.

THE COURT: Yes, sir.

A JUROR: My child is at Academic Magnet.

THE COURT: Is there anything about that that would affect your ability to be fair and impartial in this case?

A JUROR: No, ma'am.

THE COURT: All right, thank you.

Is there anyone else? Yes.

A JUROR: 144, Christina Moore. I have a nephew at James Island Charter. And I know several children at Charleston County Math and Science.

THE COURT: All right. Is there anything about what you just shared with us that would affect your ability to be fair and impartial in this case?

A JUROR: No.

THE COURT: And what grade is your nephew in?

A JUROR: A junior.

THE COURT: Okay, thank you. Your name and juror number one more time.

A JUROR: 144, Christina Moore.

THE COURT: Thank you.

Is there any member of the jury panel, or your close family member, or a close friend that has ever been employed in any capacity within a charter school, if so please stand.

Any capacity within a charter school, please stand.

Thank you, there are none.

Is there any member of the jury panel that knows any teachers or staff that are currently employed or previously employed with Charleston Charter School for Math and Science, if so please stand.

Thank you, there are none.

Ms. Bloodgood, Mr. Smith, do you wish me to read this list of teachers?

MS.BLOODGOOD: No, I don't think that's necessary

THE COURT: Mr. Smith?

MR. SMITH: No.

THE COURT: Okay, thank you.

Is there any member of the jury panel that has ever been employed as a teacher in a public or a private school in any capacity, please stand.

All right. And we will start on the front row and move our way down.

Your juror number and name?

A JUROR: 221, Sonja Taylor.

THE COURT: And where are you employed?

A JUROR: Currently in Berkeley County as an assistant principle. I started off in Charleston

County as a teacher.

THE COURT: What school in Berkeley County?

A JUROR: Whitesville Elementary.

THE COURT: All right. And is there anything that you have heard so far that would affect your ability to be fair and impartial in this case?

A JUROR: No, ma'am.

THE COURT: And your juror number and name.

A JUROR: 221, Sonja Taylor.

THE COURT: Yes. However you all want to do it. Yes, ma'am.

A JUROR: Juror number 117, Amy Litz. I'm employed at Dorchester County at Ashley Ridge High School currently as a biology teacher.

THE COURT: Same question to you. Is there anything about what you have -- what you know about this case so far that would affect your ability to be fair and impartial in this case?

A JUROR: No, ma'am.

THE COURT: And your juror number and name one more time?

A JUROR: 117, Any Litz.

THE COURT: Thank you.

Yes, ma'am.

A JUROR: 166, Jessica Peters. I'm employed by

the Oakland School of Porter-Gaud.

THE COURT: And what do you do at Porter-Gaud?

A JUROR: I'm a teacher.

THE COURT: And same question to you. Is there anything about what you've heard about this case so far that will affect your ability to be fair and impartial in this case?

A JUROR: No, ma'am.

THE COURT: And your juror number and name for the record?

A JUROR: 166, Jessica Peters.

THE COURT: Thank you.

Yes, ma'am.

A JUROR: 176, my name is Donna Pugh. I teach art at Jennie Moore Elementary School in Mount Pleasant.

THE COURT: All right. And is there anything about what you have heard so far that is going to affect your ability to be fair and impartial in this case?

A JUROR: I do have to be honest, I am partial to the art teacher.

THE COURT: I want you to be honest in every one of your responses. So will you be able to listen to the facts from the witness stand, apply the law as the

court gives it to you, and render a verdict based only upon that?

A JUROR: I can.

THE COURT: And your jury number and name.

A JUROR: 176, Donna Pugh.

THE COURT: Thank you, Ms. Pugh.

Yes, ma'am.

A JUROR: 144, Christina Moore. I teach middle school.

THE COURT: And same question to you. Anything about what you've heard so far that will affect your ability to be fair and impartial in this case?

A JUROR: No, ma'am.

THE COURT: And your juror number name.

A JUROR: 144, Christina Moore.

THE COURT: Thank you.

Yes, sir.

A JUROR: Thomas Norton. I work at Porter-Guad school. Juror number 152.

THE COURT: And same question to you. Anything about what you've heard so far about this case that would affect your ability to be fair and impartial in this case?

A JUROR: No, ma'am.

THE COURT: And what do you do at Porter-Guad.

A JUROR: I'm the director or communications and marketing.

THE COURT: All right, thank you. Your juror number and name.

A JUROR: Thomas Norton, 152.

THE COURT: Thank you, Mr. Norton.

Anyone else? Thank you, there are none.

Is there any member of the jury panel that has ever filed a lawsuit against your employer for any reason, if so please stand.

Thank you, there are none.

Is there any member of the jury panel that has ever had a complaint, whether you filed it or not, for wrongful discharge or a breach of the employment contract, if so please stand.

Thank you, there are none.

Ladies and gentlemen, I'm going to give you the opportunity, as I did downstairs, to come forward. If there is anything about what you've heard about this case so far, and you have just really heard just a brief amount of the facts, a brief factually summary; but for any reason if you feel that you cannot be a fair and impartial juror, meaning you would be unable for whatever political, personal, professional belief that you may have, to listen to the facts from the

witness stand, apply the law as the Court gives it to you, and render a verdict based only upon those things; if you feel that you cannot do that, or if there is any other reason you need to speak with me in private, please come forward at this time. Again the bailiffs will assist you.

Is there anyone?

Any further questions, Ms. Bloodgood?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Any further questions, Mr. Smith?

MR. SMITH: No, Your Honor

THE COURT: Madam Clerk.

Ladies and gentlemen, we are going to compile yet another list, and the attorneys will have about five minutes to review the names on that list. They're entitled to what are called jury strikes. And we will compile our jury from that list.

So I'm going to give the attorneys about five minutes. They again have been taking very diligent notes about your responses, so it's going to take them just a few moment to do that.

So I will give you an opportunity, while they do that, if you will check this clock, if you will take five minutes. Please do not leave this floor. If you need to take a comfort break, you may do so at this

time.

As you have already observed, until all of you are back in your seats we cannot begin the process. So please do not go far, but you have about five minutes. Thank you.

(Whereupon, a recess was taken.)

THE COURT: Counsel, we use the number on the left, 1 through 20. We have renumbered, so please don't think we are only picking jurors number 1 through 20.

THE CLERK: Starting with the plaintiff.

MS. BLOODGOOD: Thank you. Plaintiff strikes juror number 1, Your Honor.

THE CLERK: Plaintiff strikes juror number 1.

MR. SMITH: Defendant strikes juror number 5.

THE CLERK: Defendant strike juror number 5.

MS. BLOODGOOD: Plaintiff strikes juror number 7.

THE CLERK: Plaintiff strikes juror number 7.

MR. SMITH: Defendant strikes juror number 2.

THE CLERK: Defendant strikes jury number 2.

MS. BLOODGOOD: Plaintiff strikes juror number 18.

THE CLERK: Plaintiff strikes juror number 18.

MR. SMITH: Defendant strikes juror number 13.

THE CLERK: Defendant strikes juror number 13.

MS. BLOODGOOD: Plaintiff strikes juror number 21.

THE COURT: 1 through 20, counsel.

MS. BLOODGOOD: Okay. Plaintiff strikes juror number 20.

THE CLERK: Plaintiff strikes juror number 20.

MR. SMITH: Defendant strikes juror number 10.

THE CLERK: Defendant strikes juror number 10.

Now striking for the first alternate.

MS. BLOODGOOD: Number 21.

THE CLERK: Plaintiff strikes juror number 21.

MR. SMITH: Defendant strikes juror number 23.

THE CLERK: Defendant strikes juror number 23.

Just follow along to make sure we have the same numbers. Juror number 3, 4, 6, 8, 9, 11, 12, 14, 15, 16, 17, 19, and 22.

THE COURT: Is that correct?

MS. BLOODGOOD: Yes, Your Honor.

MR. SMITH: Yes, Your Honor.

THE COURT: All right.

THE CLERK: Ladies and gentlemen, if I call your name and juror number, get your belongings and have a seat in the jury box.

Juror number 240, Neomi White. Juror number

117, Amy Litz. Juror number 14, Ashley Birr. Juror number 93, Andrew Holsomback. Juror number 88, Edward Hazard. Juror number 165, Rochelle Persad.

Juror number 197, Drew Sheridan. Juror number 64, Darryl Gamble. Juror number 46, Douglas Ducap. Juror number 110, Rosanna Krekel. Juror number 144, Christina Moore. Juror number 234, Mary Warland. Juror number 114, Patti Leman.

THE COURT: Any motions or matters pertaining to the jury as selected?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: None from the defendant.

THE COURT: All right.

Ladies and gentlemen, you have been selected as the jury to try this case. We are going to show you to your jury room, allow you to take a comfort break, and bring you back in in just a few moments. Thank you.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, please be seated.

Outside the presence of the jury, any motions or matters pertaining to the jury as selected?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: The only issue is to reiterate our earlier objection. As a matter of course we believe that because the plaintiff is a teacher, local teacher,

that no juror can be impartial and we ask be struck.

THE COURT: Your motion is still denied. Thank you, Mr. Smith.

Ladies and gentlemen of the jury panel, you were not selected. Ladies and gentlemen, please remember your service is for the week so I need you to call back after 6:00 p.m. to the hotline number.

Ladies and gentlemen, please remember you will receive further instructions for your service for the week. Ladies and gentlemen, this has been a really good week for you to be on jury service, let me just say that to you.

Ladies and gentlemen, please again I know that there are other places you'd rather be. I've had the opportunity to speak with some of you face to face downstairs. And I appreciate your sacrifices for being here. As you can see, again our work couldn't be done if it were not for you making those sacrifices. Have a wonderful afternoon.

Again, it was a pleasure meeting each of you. Please call back after 6:00 p.m. Thank you.

(Whereupon, the prospective jurors exit the courtroom.)

THE COURT: All right. We have got some preliminary motions, pretrial motions.

MR. SMITH: May it please the Court.

THE COURT: Let me ask you, at least my plan was we are getting close to the lunch hour. My plan was to do my opening and your opening and then break for lunch. Can we do that without pretrial motions?

MR. SMITH: Yes, ma'am.

MS. BLOODGOOD: Yes.

THE COURT: Okay. We will do that. Are you prepared to go forward with your opening? Actually I'd like to go to about 12:30. How long will your pretrial motions take?

MR. SMITH: Five minutes.

THE COURT: Okay, let's go ahead. Let me hear them.

MR. SMITH: May it please the Court, my name is Tommy Smith, I work for the charter school.

I filed the defendant's motion in limine. The parties have agreed, and plaintiff's attorney indicated she would not offer any information regarding the principle's teaching job in the Atlanta School District, so that matter is resolved.

Earlier this morning plaintiff's attorney also indicated that she would not bring evidence of a potentially sexual remark or the witness's sexual orientation. I believe that is resolved.

THE COURT: Okay.

MR. SMITH: Number three is sort of unusual. We ask to have excluded from court any information or evidence of plaintiff's alleged emotional damages. Under due process claim, specifically in our interrogatory, which are on file with the Court, we asked if she had seen any doctor, she said no.

And in her deposition I asked her at three times, if not five, about her emotional damages. And every time her response was this. I can't tell you about any emotional damages until after I speak with my attorney.

I believe in our discovery rules we are entitled to discovery about damages they're going to claim. And if they refuse to offer evidence through discovery of emotional damages, we believe due process rights would be violated should they offer evidence of emotional damages during trial.

Two more issues. The school's charter. The way a charter school is formed it files an application with the school district. If the school district accepts it, it becomes a contract between only two parties.

In this particular case it's undisputed that the contract between the school and the school district was in effect in 2006/2007. The school began taking

students in 2008. The plaintiff in this case wasn't hired until August 2010.

Regarding the school's charter, we believe it has no relevance to any issue in this case because there is no evidence that the plaintiff was a third party beneficiary. It would confuse the jury under 403, and we ask that it be excluded.

Finally, we talked about this this morning during pretrial. I saw the plaintiff's proposed exhibits. One of her proposed exhibits is a notice of terms and conditions of employment under section 41-10-30.

Any employer in our state who has at least 5 employees has to send that out. And under the statute itself it says 41-10-30 does not constitute a legal contract as a matter of law. Therefore we think that because it can't constitute a contract as a matter of law, it's irrelevant.

Number two, under Rule 403 it would substantially confuse the jury. And any probative value it has is substantially outweighed by the prejudice it would cause.

Thank you, Your Honor.

THE COURT: All right. Ms. Bloodgood.

MS. BLOODGOOD: Thank you, Your Honor.

Regarding Mr. Smith's objections to what was -- what the answers were in the deposition, I think he should have filed something after the deposition if he didn't like the answers. But certainly emotional damages are a remedy that my client would be available to under either a fraud or a gross negligence supervision claim.

I'm not -- I'm just not sure what that's about, but I don't think this is the forum to argue about testimony during a deposition.

In terms of the third party beneficiary claim. To determine whether a party is a third party beneficiary the courts look to the terms of the contract to determine the intentions of the parties.

Clearly those are factual issues. We intend to introduce evidence, which we have not yet because trial hasn't started, to show that the mission statement is to, helps teachers to create professional opportunities; that it talks about offering art at the school; and that there is an evaluation and a termination and discipline process. All of which my client, as a teacher at that school, relied upon because that is the contract between Charleston County School District and the school.

So we think that we have evidence to show that

as a teacher at the school, as any teacher, she is a third party beneficiary to that contract.

And that would be my answer to those two issues.

THE COURT: All right. And your third issue, Mr. Smith?

MR. SMITH: 41-10-30, that was the terms and conditions of employment.

MS. BLOODGOOD: I'm sorry, Your Honor. That is a document the school handed out. It's one of the documents that my client, they prepared it, we didn't make it, they handed it out when she was hired. She signed it.

It shows, the significance of it for the jury is that we think that it shows an annual salary. It shows there was an intent in the beginning that she was going to be hired for a year. And so that -- I'm not going to --

THE COURT: Is it part of the contract, the employment contract?

MR. SMITH: No, ma'am. The employment contract is attached to the complaint. It's a one page contract. 41-10-30 notice is required by law. And the statute itself says; this cannot be a contract.

THE COURT: What is the -- why do we need that, Ms. Bloodgood?

MS. BLOODGOOD: I'm not alleging it's a contract, Your Honor. It's one of the documents that she signed. And the significance is that it says she's full-time. It says that what her yearly salary is, which is important to prove the damages. It says she gets health insurance.

THE COURT: Isn't that coming in through the contract?

MS. BLOODGOOD: The amount that she is paid is actually not in the contract, it's in this document. And I think this may be the only document I have that says what her salary is that they gave her at the beginning.

THE COURT: Mr. Smith.

MR. SMITH: We will stipulate her salary, annual salary should she have been with us the entire year is $34,000.

THE COURT: Let me see the document.

MS. BLOODGOOD: Sure. May I approach?

THE COURT: You may. Thank you for asking.

This is marked for ID, Plaintiff's Exhibit 4.

Anything further, Mr. Smith?

MR. SMITH: Nothing from the defendant.

THE COURT: And so the purpose of your motion in limine, you wish to exclude any discussion of, and

testimony by the plaintiff of any emotional distress, any emotional damages that she had suffered?

MR. SMITH: Yes because in her deposition she testified, I can't tell you about any of this, I have to talk to my attorney first. Even though I pressed her time after time. She refused to provide any information regarding the damages, for emotional issues, pain and suffering.

THE COURT: Ms. Bloodgood, has there been any evidence, or any discovery presented to Mr. Smith regarding those issues?

MS. BLOODGOOD: My client has not been able to afford to go to a doctor, she has no insurance after she was terminated. She testified to that.

She also testified to the loss of her home, her house being in foreclosure, her credit being ruined, not being able to get a job. In my opinion those are all issues of emotional distress and we certainly do intend to go into that.

That was all deposition testimony. I think quite honestly he confused her by talking about punitive, but I don't have -- I'm not quite sure what he's talking about. But there was ample testimony in the deposition about no insurance, no health insurance, only catastrophic, couldn't afford COBRA, losing her

house, can't get a job, working only part time, no credit cards anymore. Those in my opinion are all go to emotional, they're stressful damages. And I think they speak for themselves.

THE COURT: Mr. Smith.

MR. SMITH: Those are all money damages. I asked her about all those things in deposition. I said, did the school ever promise to pay your mortgage payment? Did the school ever promise to pay your COBRA? I asked her all those issues.

And then at least three to five times during the deposition I asked her about pain and suffering and emotional damages. And every single time her response was, I can't answer that until I speak to my attorney.

I would ask her again, I said, this is your only chance, this is like testifying in front of a jury, your only opportunity is now. If you have any emotional or pain and suffering damages, tell me now. And she refused to three to five times.

THE COURT: Ms. Bloodgood, your response to that? Seems pretty clear to me in the deposition.

MS. BLOODGOOD: That she didn't answer that question.

THE COURT: Correct.

MS. BLOODGOOD: Right, she didn't because I --

but she did in other places talk about her losses.

THE COURT: Well there is a difference between losses and her emotional distress. Are you alleging, because you are going to request, you are going to ask the jury to award some pain and suffering, correct?

MS. BLOODGOOD: Emotional distress damages, yes, Your Honor, based on the loss of her house, and the credit, and no health insurance, yeah.

THE COURT: And she didn't answer those questions in discovery.

MS. BLOODGOOD: She did answer those questions. We gave them plenty of information about all of that and the numbers.

And I guess I'm just not -- we have, I think he doesn't have a problem with us introducing the monetary value of all of those things. And I guess he is just saying he doesn't want her to say that that was stressful or that upset me.

She did in her deposition, and she will again. I'm not quite sure, I think the jury will kind of presume from the loss of those kinds of things that she has suffered. I don't think she ever said she didn't when you lose a house.

THE COURT: I think perhaps, Mr. Smith, you are concern is going to be that now she is going to get up

there and say she has suffered nightmares, or some physical symptoms that have not been presented in discovery? Am I understanding your concern?

MR. SMITH: Yes, ma'am. I expect her to testify about nightmares, stress, can't sleep.

THE COURT: I'm just assuming that based upon other cases of this nature, Ms. Bloodgood, has there been any testimony of any physical symptoms related to this?

MS. BLOODGOOD: No, not in her deposition. And I wasn't going to ask her anything that was different than the deposition.

THE COURT: All right. Then your motion in limine is granted. And, again, we understand that motions in limine, I grant them based upon the information given.

If something were to change, Ms. Bloodgood, please make sure that you stay on what was inquired of in the deposition. And if you need to object, feel free to do so. All right. We will address it at this time.

As to the school's charter, you wish for the entire charter, and any testimony about the charter, to be excluded?

MR. SMITH: Yes, ma'am, because it has no

relevance to this case. It's a contract by statute only between two parties. The statute says once you apply for a charter school, and once the school district -- which happens to be the Charleston County School District in this case -- accepts it, it's part of the quote, unquote, a contract.

There is no mention of anything to do with the teacher, or benefiting the teacher. And the test in South Carolina law is, is the teacher, in this case is the plaintiff, intended to be the direct beneficiary of the services or duty provided therein.

That's the legal test. And there is absolutely no evidence, in the charter or anywhere else, that the charter was intended to benefit teachers. Rather if you look at the charter from page 1 to page 151, the only intended person to benefit from the charter are the students of the school.

THE COURT: All right. Ms. Bloodgood, what's the purpose of introducing, the relevance of introducing the charter?

MS. BLOODGOOD: Well the charter has several provisions in it that are important to our case. And it's another set of rules that they broke when they terminated my client. And that's what I'm going to argue. Not only did they breach her contract, they

didn't follow their employment agreement, and they didn't follow their own charter.

And what the charter says is that there will be art courses. And when she was terminated midyear, they stopped teaching art. And it also says that there are only certain reasons why you can be terminated, and it lists them.

The principle admitted none of those reasons applied. So I need the charter to show that she was not terminated for cause, and that they didn't follow their own governing documents on my case in chief.

But I also need it on the third party beneficiary claim. I think that it will be up for a jury to decide when the Charleston County School District enters into a contract with a charter school, some of the things it is interested in students and teachers and parents and courses by statute -- and I handed the statutes up -- they have to act like a public school.

They have to use the in depth program, which is teacher --

THE COURT: All right. I'm going to allow the admission of the charter based upon what Ms. Bloodgood has indicated to the Court. I'll note your exception for the record at this time, Mr. Smith.

And finally as to the document, Plaintiff's 4, again based upon the need for the salary and the other items that are contained on Plaintiff's 4, I will allow the admission of Plaintiff's 4. Again note your exception.

Again this just means -- she has got to lay the proper foundation and all of that.

Anything before we bring in the jury, Ms. Bloodgood?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Mr. Smith?

MS. BLOODGOOD: We are just doing openings before lunch?

THE COURT: We are going to do openings. How long are you all going to take for your opening?

MS. BLOODGOOD: Just 20, 25 minutes.

THE COURT: All right, that should be.

MR. SMITH: I will be quick.

THE COURT: Thank you. I anticipated you all would be less than 10 minutes, but we will just take our break at that time.

Let's bring the jury in. Please remember to rise for the jury.

(Whereupon, the jurors enter the courtroom.)

THE COURT: Thank you, please be seated.

Ms. Leman, you are our alternate and so you will need to always remain in the back row so that I always know that you as the alternate are seated right there.

Ms. Krekel, you have been selected as the jury's foreperson. What that means is that you are the jury's spokesperson here in court. So if at any time any of you need an extra break or something, please let your foreperson know and she will alert the bailiffs and let me know and we will take care of it as quickly as we can.

As the foreperson you are also responsible for writing the verdict, but I will give you further instructions regarding that.

Ladies and gentlemen, what the plan is before lunch is I'm going to give you just a general charge on what will be happening. And both the plaintiff and the defendant will make their opening statements, and then we will break for lunch.

So please stay with me for just a few moments, and then you will be able to take your lunch break.

Madam clerk, if you will please swear the jury.

(Whereupon, the jury is administered the oath by the Clerk.)

THE COURT: Please let the record reflect that all 13 jurors took the oath. What I now say is meant

to serve as an introduction to the trial of this case. These remarks are not a charge on the law. I will instruct you on the law throughout the trial and at the close after you have heard all of the testimony and the closing arguments on behalf of counsel.

Before the trial begins, I just wanted to take this opportunity to give you just a general framework of what will be happening so you will be better able to understand what is happening.

You have been selected as fair and impartial jurors, whose purpose is to find and determine the facts. You are the sole judges of the facts in this case. Ladies and gentlemen, you may have noticed when you came in this time that the parties involved, as well as the members of the audience, were standing. This is out of respect for your new position as judges of the facts.

Ladies and gentlemen, if at any time I make any comment regarding the facts in this case, you must disregard it. The law does not allow me to have an opinion regarding the facts of this case.

You are to determine the facts from the testimony you hear, as well as the other evidence that is presented. You should not be influenced by any opinions or statements you may have heard outside of

the courtroom.

It is important that you perform your duty of determining the facts diligently and conscientiously, because ordinarily there is no way to correct an erroneous determination of the facts by the jury. When you comply with your oath to impartially determine the facts of this case, you will have fulfilled your duty as jurors here this week.

On the other hand, and with equal emphasis, the same law that makes you the judges of the facts makes me the judge of the law. The law, as given by this Court, is the only law you may consider. You must accept it and follow it, even though you may disagree with it.

I can't tell you what the facts are, and you cannot disagree with me about what the law is or what the law ought to be. Your job is to take the law as I give it to you, apply it to the facts as you find them from the testimony of the witnesses as well as any other testimony and evidence that is presented. After doing that, you will render your verdict, a true and just verdict, under the solemn oath that you just took as jurors.

Until I advise you to begin your deliberations, you must not discuss this case at all. That includes

with your fellow jurors, your friends, your family members, anyone. Please remember that this includes face-to-face discussions, but it also includes any electronic discussions. You may not make any comments on Facebook, My Space, or anything of that nature. You may not text. You may not blog. You may not discuss this case in any form or fashion with anyone until I tell you that you may.

Ladies and gentlemen, you may not decide any issue in this case until I tell you to begin your deliberations. You must not perform any independent investigation. You must not do any independent research either together or as a group.

You may not go by any of the scenes that are alleged in this case. All of the information must be solely given to you from the courtroom. Please do not read, watch, listen to or watch any news accounts regarding this case should there be any.

Ladies and gentlemen, in just a moment the attorney for the plaintiff will make what is called an opening statement. The attorney will explain to you the issues in this case, or at least what the attorney thinks are the issues are.

The attorney for the defendant will also make an opening statement. Please remember what they tell you

in their opening statement is not evidence in this case, it is simply their contention as to what the issues are.

When you return back from lunch, I will give you notepads. You will be allowed to take notes throughout the progress of this trial. Please remember some of us in school were much better note-takers than others. Those notes are your personal notes. One juror's notes are no more accurate or correct than another juror's notes.

Please remember you may hear from time to time an attorney say, Your Honor, I have an objection, may we approach the bench, or I might find it necessary to excuse you from the courtroom for a short while. Please do not, if we are up here at the bench, try to overhear our conversations or read our lips or anything of that nature. And please do not think we are trying to hide anything from you.

The reason that I do that is because as I indicated to you, the law does not allow me to have an opinion about the facts in this case. But sometimes it is necessary for me to comment about the facts in order to make a ruling on the law. And so in order to make sure that I don't influence you in any way, I will keep the -- have the attorneys approach or excuse you.

Ladies and gentlemen, in determining what the true facts are in this case, you must decide whether or not the testimony is believable. It is my responsibility to rule as a matter of law whether it's admissible. But once the testimony is admitted, whether or not you believe it is solely for you to determine.

In deciding whether to believe a witness you have the right to consider whether the witness has an interest in the result of the trial; whether the witness is prejudiced toward either the plaintiff or the defendant; the opportunity for the witness to have seen the matters and things about which the witness testifies; as well as the way the witness acts on the witness stand.

You have a right to consider anything in the record that will help you evaluate the testimony of the witnesses. That means that it is your responsibility to pay close attention. Please do not let your thoughts wander.

Pay close attention so that at the close of the case, after you have heard closing arguments and I have instructed you on the law applicable to this case, you will be in a position to determine what the true facts are, apply the law to those facts, and render a true

and just verdict.

Please give your strict attention to Ms. Bloodgood.

MS. BLOODGOOD: Thank you, Your Honor.

Good morning. My name is Nancy Bloodgood, and I represent Cynthia McNaughton. She was an art teacher. And this is a special privilege for me to represent her. I was actually a teacher before I went to law school. I have a soft spot in my heart for teachers. And I know it is a very, very hard job, and they don't get the respect that they should get.

Rules are important for everyone to follow. And especially when you think of schools you think of rules that schools have. This is a case about rules, and some rules that the school broke. I have an exhibit I want to show you.

MR. SMITH: Objection, Your Honor, showing an exhibit.

THE COURT: Hold on one second, counsel.

MS. BLOODGOOD: It's not an exhibit, it's just a picture. I'm not entering it into evidence.

THE COURT: Take an opportunity to show Mr. Smith before you show it to the jury, thank you.

MS. BLOODGOOD: These are the rules that I think this case is about. And they're simple. They're

easily obeyed. Can you all see this? Okay.

And these are the rules that this case is about, and what we are going to be talking about. The first one is a school must honor its contracts. A school, like any employer, that enters into a contract with a teacher, it should follow that contract. It's a simple rule to follow. And it's our position, and we will show you through the evidence, that the school chose to break this rule.

The second safety rule that schools need to follow, and all employers need to follow, is that a school must require its principal to follow the rules in its charter and in its handbook. Schools, like other employers, have handbooks. And they have the rules for why you can fire a teacher.

In this case, you'll see evidence that not only did Ms. McNaughton not violate any of the rules in the handbook that would allow them to fire her, the defendant gave her a letter of recommendation after they fired her midyear. There is no issues about her performance.

And in the handbook there are rules about if you have a teacher who is performing well, you don't fire them in the middle of the year to give their salary to somebody else; which is what happened in this case and

what the evidence will show.

The other thing is that a charter school has a charter. Even though it's part of the public school system, you will hear evidence and testimony to explain that a charter school is not run by the state or the county school district board, it's run by parents, it's a private group of people.

And so they have to form their governing documents, it's a charter. And it says, in this case to the Charleston County School District, this is what we are going to do as a school. And we promise this is what we are going to do.

Well it's our position that they didn't do this. And when the school didn't do this, it broke the rules of their charter. So the second rule is, if you have an employee handbook, if you have a governing document, follow the rules. Follow the rules.

Then the third simple rule in this case is that a school is responsible for its principal's actions. If you have a principal who is breaking contracts, not following the employee handbook, not following the charter, then it's the responsibility of the school board to step in say, no, that's wrong. That's wrong.

To understand this case, you have to know a little bit about a program called PACE. Some of you

have heard of it, some of you haven't. P-A-C-E. It stands for Program for Alternative Certification for Educators.

Several years ago the state passed, and it's a wonderful program, that says if you are an engineer, or if you're IT, or if you're an artist and you want to go back into teaching but you didn't go to school and take education courses, you can become a certified teacher.

Now it's a rigorous course. You have to take tests, you have to do have SLED backgrounds, you got to have interviews, you've got to submit work. And then once you get one of these teaching positions you are called an induction teacher. And once you're an induction teacher then you take a lot of graduate courses.

And if you pass all of those courses, and it's about a 2 to 3 year process, you become a certified teacher. And you can teach in public schools in South Carolina, which include charter schools.

And the advantages to that are that as parents when we have our children in school we get people from all walks of life, who have done different things, who have all sorts of talents that some teachers might not have because they weren't engineers, or they weren't nurses, or they weren't artists.

And so it broadens the teaching base. It brings people in. And it also gives people an opportunity to change careers.

And in Ms. McNaughton's case she was a graphic artist. She had taught school in Florida for seven years. So she was not a new teacher. But when she moved to South Carolina, she wasn't certified so she couldn't teach here.

The PACE program allowed her to get back into teaching. But it's a rigorous program. And you will hear that because she passed everything, she started teaching, but because she was suddenly and abruptly terminated in December of her first year, she is now back out of the PACE program, and nobody is going to hire a teacher, an induction teacher at age 56 who got terminated even with a letter of recommendation. So the PACE program is something that I want you to keep in mind.

And what happened, that leads me to the story of the case, what happened is that in December of 2010 Ms. McNaughton had been doing a good job teaching, no write-ups, no problems, parents loved her, students loved her, was called into the office and told, you are being terminated. We are terminating you because we want to give your salary, we want to hire another

teacher. We need your salary to give it to somebody else.

We are going to show you the employment contract, the contract which the principal admits is a contract which allowed her to teach for a full year. But she gets fired in December.

And this is where the rules are broken. There is nothing that says that they can take a teacher with a contract and fire her in the middle of the year. She had no income. She will testify as to her damages.

But the defendant chose to break that contract. And we will show you evidence that they didn't have to do that. There was plenty of money available for them to keep her and hire another math teacher if they wanted another math teacher.

It was also when she complained she was told, you are at will. At will employees, I'm sure you have heard that, we can fire you at any time, whenever we want we can fire you. But that's not true. In fact she was a contract employee, she had a contract.

Then she was told, you are being laid off. You're laid off. Well, we will show you the school has no layoff policy. Nobody was ever laid off before or after. And if it was a layoff and she was such a great teacher, why didn't they call her back? They never

called her back, they just hired another art teacher the next year.

This was -- you know, because of our economy, if you don't personally know, you know someone in your family or a friend who when they lose their job in this economy it is devastating.

And I can tell you when you are older and you lose your job and you are switching careers, it is very, very difficult. Ms. McNaughton will tell you that her mortgage went into foreclosure; she's still fighting to save her house; her credit is ruined; she couldn't afford COBRA. I don't know if any of all had to try to buy COBRA, it's very expensive. She has catastrophic insurance now that she is about to lose.

After a year she was able to find part-time teaching jobs because she desperately wanted to try to stay in teaching, but only a few hours a week far away. And she took the job, she absolutely took it, but it's not enough to qualify her for PACE. So she is still can't get into the PACE program and can't be a certified teacher.

It's not about saying -- if it was a certified teacher, if it was somebody who had taught for five years, ten years, it would be a different story. That person could pick up and go teach again, probably,

possibly. I know the economy is hard and it hit teachers because schools are laying off teachers too.

But for someone who is 56, who's changed careers, who has put all the time into it to do this, who really loved teaching when she did it in Florida and wanted to get back, she is not going to be able to go into teaching. She has had to forego that career. She cannot, she probably will not find a job.

And not only that, three years ago she stopped doing graphic design. The jobs that are out there are entry level. It will take her years to get back. If she can find that, she has been looking for that too, if she can find that job it will take her years.

So what was done was done so -- there was just no reason. Those rules are so simple to follow. But the defendant chose to do that. And in this case when they did it, they caused serious harm.

So I would ask you, as in your jobs as the jury, and your job is to send a message to schools and say don't break those rules. You endanger our teachers when you put them out of work for no reason, as well as the students and the parents. But people shouldn't be fired for no reason. Especially when they worked so hard to get into to being a teacher.

I thank you in advance for your time.

THE COURT: Mr. Smith.

MR. SMITH: May it please the Court. If I haven't learned anything after practicing law about 20 years, if I haven't learned anything the one thing I have learned, there are two sides to every story.

Every case that comes in my office, there's always two sides. And I'm so glad that you each swore an oath that you'll listen to the judge's instructions. You swore an oath you will wait for all the evidence to come in, and hear all the arguments before you begin making a decision because this case has two sides.

Let me introduce myself. My name is Tommy Smith. I'm a trial attorney. I have got an office just across the bridge over in Mount Pleasant. I have been practicing about 20 years.

I represent the Charleston Charter School for Math and Science. And I can't tell you how glad and how proud I am to be their attorney.

Sitting next to me is Tammy Kirshtein. She's a doctor. She is the principal of the school. She made the decisions, or at least most of the decisions, that you'll hear about in this case. You know who I am, you know the principal, let me tell you about my charter school.

In 2005/2006 there was no such thing as the

Charleston Charter School for Math and Science. It didn't exist. What happened was some parents got together and they looked at the charter school statute, the law in South Carolina which allows charter schools, and for no pay they worked really, really hard, they did tons of things to apply to become a charter school.

The charter, which is the contract only between the school and the school district, the charter was approved, and in 2008 we began accepting students for classes.

We also began hiring teachers, and you'll see several documents. One of the most important documents you will see is our handbook. I believe that Ms. Bloodgood mentioned it a moment ago, she talks about a school that needs to follow the rules of its charter and its handbook.

Wait for me. Wait for all the evidence. You won't see one thing in that handbook that we violated. Just wait. When she points to the charter, depending on how the judge rules whether or not it comes into evidence, you won't see one thing we violated in the charter.

The school admits this individual -- and the school loved this teacher. We wrote her great letters of recommendation after she was laid off. She wasn't

fired. The evidence will show that she did a good job, but we had some funding issues.

And importantly, you'll see not only the one-page teacher contract, but you'll see a provision there, we call it a contingency. You know what a contingency is. This contract, which is one year only, this contract allows you to teach. And we will pay you to teach for one year contingent on about three things. One of those issues was funding.

You'll hear a story from the fall of 2010, and the story goes like this. We had great students. We had great teachers. However, when our math teacher, Ms. Pedings -- you'll meet her if not this afternoon then tomorrow -- when one of the math classes took the county-wide benchmark math exam, one class did really, really poor.

It was already October, approaching midyear during the school year. The math teacher went to the principal, Dr. Kirshtein, and said, we got a problem. So between the math teacher and Dr. Kirshtein they put together a game plan.

You'll see that the funding would not allow, on the line item of teacher salary, the funding would not allow us to hire another math teacher, which is what they decided to do, and continue to fund all our other

positions.

You'll see several employment contracts from several different teachers for that year. All of those contracts have the same contingency in the contract. It's right down here. And I blew it up really big so that you guys can see it easily during the trial. They all have the same contingency. Among other things it says, your job is contingent upon funding.

And during this trial Ms. McNaughton, she will admit to you that it wasn't her decision whether or not there was funding there, either before she was hired or after she was hired. The facts will be undisputed that the funding decisions, which are budget decisions, were Dr. Kirshtein's decisions in this case.

So what did the school do in the fall of 2010? It hired an additional math teacher at the end of December. And Dr. Kirshtein and Gail Tolbert, our HR person, they brought the plaintiff into the office and said, look, we have lost funding. We have to get another math teacher because this is a school for math ad science. And the math scores have gone down the toilet. So we have to hire somebody else to get the math scores up because the school year is almost half over. And that's what they did.

You will notice a difference in this case, I am

going to say laid off. Because when you lack funding for a position, if you've ever worked and I'm sure most of you have, when you lack funding for a position it's called RIF, a reduction force, it's called a layoff. That's all that happened in this case.

We didn't fire her. And I believe you'll agree at the end of the trial. Because we think we fired somebody because they did something bad. She didn't do anything bad. You will see some glowing letters of recommendation.

With that said, there will be no question at the end of the trial that Ms. McNaughton was hired only for one year. We didn't hire her for two years, four years or five years. And she will admit on the stand she had only one contract, and it was for a one-year employment contract, and she had no other contracts extending her employment for longer.

So when we are talking about damages, either the witness on the stand or during closing argument, we will ask you during the trial to limit damages to what she would have earned during that contract period if you find that we breached it. If you find we did not breach that contract, we will ask you to return a verdict in favor of the defendant.

Again, just wait. Wait to hear all the evidence

because there are two sides to this story. Wait for all the evidence before you make a decision.

And like Ms. Bloodgood, thank you so much for coming. Without you this doesn't work. I know it's not fun to do jury service, but we need you and we thank you for your time.

THE COURT: All right, ladies and gentlemen, this is an appropriate time for us to break for our lunch break. Please be back in your jury room at 1:45. And please, and you've seen it happen, we cannot begin until all 13 of you are here so please be considerate of everyone's time.

I plan to break between 5:00 and 5:15 or so. If anyone has any child care issues or other concerns that we cannot go that late, please let your foreperson know and she will alert the bailiff and we will make other arrangements.

Please have a wonderful lunch. Please remember all of my admonitions about discussing and independent investigation and all those things. Please be back and we will begin promptly at 1:45.

Please rise for the jury.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, please be seated.

Anything before we break for lunch?

MS. BLOODGOOD: Your Honor, I have an objection to two of defendant's exhibits. I don't know if this is the right time to talk about it, but he may use them to cross-examine my witness. I thought we may want to talk about it now.

THE COURT: Which two are they?

MS. BLOODGOOD: He's planning on introducing my responses to interrogatories, and my responses to first set of request to produce. I don't think that's appropriate. I don't know for what purpose.

THE COURT: Mr. Smith, do you plan to use either?

MR. SMITH: It depends on the testimony of the plaintiff. On the interrogatories, I will use it for impeachment on two issues if I need to.

And on request to produce, we were in front of Judge Dennis three weeks ago and he granted my motion to amend to add the defense of failure to mitigate damages. So the request to produce, if I don't introduce I will ask her about it because we asked for all her job applications, et cetera, and she has never produced not one job application in two and a half years.

THE COURT: We will address those when they come up.

Anything further?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: Nothing from the defendant.

THE COURT: All right, we are at ease. Please be back at 1:35.

(Whereupon, a recess was taken.)

THE COURT: Anything before we bring in the jury?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: No, Your Honor.

(Whereupon, the jurors enter the courtroom.)

THE COURT: Be seated. I hope everyone had a wonderful lunch. Everyone has notepads at this time; is that correct?

Ms. Bloodgood, call your first witness.

MS. BLOODGOOD: Thank you, Your Honor. I call Ms. McNaughton to the stand.

MS. CYNTHIA LEE McNAUGHTON,

after having first been sworn to tell the truth, the whole truth and nothing but the truth testified on her oath as follows:

DIRECT EXAMINATION

BY MS. BLOODGOOD:

Q Ms. McNaughton, good afternoon.

A Good afternoon.

Q I'm going to ask you some questions and have you explain a few things to the jury if you would.

Would you first tell them briefly your educational background and your work experience?

A Yes. I have a bachelor's of art in art, and graphic design studio art. And I spent seven years -- I lived in Miami for 10 years and spent almost all those 10 years teaching at a school down there.

I taught graphic and visual art for theater and theater design and set design and costume design.

Q I'm going to show you an exhibit that we have marked as Plaintiff's Exhibit No. 1 and ask if you can identify that document?

A Yes. This is a copy of my resume. I actually have two resumes. I have been looking for work in both graphic design and teaching.

Q Is that Exhibit 1 both of those resumes?

A Yes, ma'am.

Q And does Exhibit 1 accurately reflect your work history?

A Yes, it does. Yep.

Q Now when you moved to South Carolina, were you able to teach in South Carolina?

A No. I didn't complete the required classes when I was in college to get my teaching certificate. But

after moving down here, I met someone who was a certified teacher in South Carolina and she told me about the PACE program.

So I wasn't aware until that point that there was an alternative route for me to get my teaching certification here in South Carolina.

Q Before we start talking about PACE, and you can tell the jury what you know about it, why did you like teaching in Miami? Why did you want to return to teaching?

A Why do I like teaching? Teaching to me is personally rewarding. Especially I found in the visual arts a lot of times you can reach students that may not necessarily do very well in academic classes, so that might be their only chance to succeed in a classroom setting and actually feel confident about themselves.

So I really like the interaction with students. And I like to feel that I am helping them.

Q But when you moved to South Carolina you were not able to be a teacher, correct?

A No. So when I first moved here I decided to pursue graphic design because as I said I wasn't aware that there was a way for me to pursue my teaching certification here.

Q Now how many years were you doing graphic

design?

A I started in 2001 and then I stopped in 2010 when I accepted the teaching position at the school.

Q All right. So let's talk about PACE because I mentioned a little bit in the opening. Would you explain to the jury what you understand the PACE program is, and why it exists, and what you had to do to get into it?

A The PACE program exists, as I understand, to sort of broaden the teaching pool. It allows people that are not necessarily or didn't necessarily decide to go into teaching the opportunity to pursue their certification so that they could become teachers. So you can have people that might choose teaching as a second or third career.

Q What did you have to do to get into the PACE program?

A To get into the PACE program is pretty rigorous. I had to submit my job history. I had to submit all my transcripts from college. I had to take two practice exams which are competency exams; one was in like the history of art and the background of art, and one was in the execution of art.

So I also had to submit three samples of my personal artwork and write essay on that. They're all

timed, timed exams. I had to have a SLED check, an FBI background check, and a fingerprint check. And I also had to submit three letters of recommendation.

Q And I assume you were accepted into the program?

A Yes.

Q How long did it take you to meet all the requirements to get accepted into PACE?

A I started in 2007, and I finished probably close to the end of 2008. So it took me about two years to go through the whole process.

Q And during the time that you were working to get accepted into PACE, did you also have a job?

A Yes. I was working full-time at Whole Foods Market. A lot of people don't know that each store employs their own graphic designer. So I was working there full-time, sometimes with overtime, and also time to study for my practice tests and fulfill all of the requirements.

Q Now once you take a test and get accepted into the program, what is the next step?

A The next step is you are then eligible to apply for teaching positions in the state.

Q Okay. And did you do that?

A Yes, I did. I would -- I was checking, continuously checking the Charleston County website

where they had the teaching positions open. Because part of being accepted into PACE meant that I also had to have my application online with the State Department of Education, as well as the Charleston County School District.

So I became very frustrated in trying to apply for the few jobs that came available. So in June of 2010 I sent emails to every single principal in the Charleston County School District, along with my resume and cover letter, explaining to them that I was looking for full-time employment as a PACE induction teacher teaching art.

Q And eventually did you get a response to those emails?

A Yes. The defendant school responded to my email in August of 2010. The principal said that they had a full-time art teacher the prior year, but she just found out that he wasn't going to be returning for that school year.

Q And did you interview for that job?

A Yes, I did.

Q Did you present some of your artwork and the information you had given to PACE to get certified?

A Yes. I not only brought samples of my artwork to the interview, but I also created a, like a sample

-- what am I trying to say -- sample class plan for one of the grades at the school so that the principal would have an idea of how I would approach teaching art at the school.

Q What grades were you going to teach?

A 6th, 7th, and 8th grade art. Kind of a combined high school art class. And then also the yearbook class.

Q All right. Just before we talk about the job, once you get accepted and you are an induction teacher in PACE, what do you have to do still to become a certified teacher in South Carolina?

A There are a series of classes that you need to take that are mandatory. Some of them are held in Columbia, and some of them are held here in Charleston. But they are throughout the school year. And then in the summer and then the following school year.

And then part of the PACE program, it's kind of confusing, but as part of the PACE program you also have to follow the ADEPT program which is the assisting development education for professional teaching which is the State Department of Education system for evaluating teachers. So they have classes also that you need to take.

Q And what do you call a first year teacher in

PACE?

A You are called an induction teacher.

Q Now what was your plan once you got a job at the defendant school in terms of your certification?

A I was on a fast track to get my certification. When I completed my bachelor's degree I, since I was paying for the schooling myself, I took an overload of classes so that I could complete my degree as quickly as possible.

So I knew I was capable of sort of staying on overload of classes again. So my plan was to finish all of my class work, including -- I forget to mention that -- I would have to take three graduate level classes. So my plan was to finish all the course work in the fall of 2011.

Q Okay. And why is it good to be a certified teacher? What is the value of being certified?

A The value is honestly that it's easier to get a job, it's easier to get a job as a certified teacher. School districts, you know rightly or wrongly, will almost always choose a certified teacher over someone who's still working towards her certification.

Q And as a certified teacher would you also be eligible for the state retirement system?

A Yes. And also another reason I was on a fast

track to finish my certification was because as soon as I finished all those classes, I would immediately be eligible for a pay raise to start working in the pay scale with yearly increases that the county school system has.

Q Did you research and look into what it would mean to you to be a certified teacher in terms of your future career?

A Yes. This was because of I am now in my mid to late 50s, my plan was to make this my exit career. I did graphic design because I wasn't aware of the my, you know, the alternative route to certification. And once I found that, I really was hoping that I could do this until I retired.

Q Okay. If you are not working at a school once you have been accepted into the PACE program, if you lose your job, what happens?

A You have to start all over again from the beginning. You have to reapply to the program and anything that you've done is just completely gone.

Q Who hired you at the charter school?

A The principal.

Q Who is the principal?

A Ms. Kirshtein.

Q Ms. Kirshtein sitting here today?

A Yes.
Q Approximately when were you hired?
A Beginning of August, 2010.
Q All right. When you were hired, did you sign a contract of employment?
A Yes, I did.
Q All right. Let me show you a, before we look at the contract, let me ask you another question. Did you look over any of the school documents prior to deciding to go to that school?
A Yes. Once Ms. Kirshtein responded to my email, I wanted to familiarize myself with the school. So I went on the school website and they had the school charter listed there. I wanted to find out what the school's policies and procedures were, what their rules were.

They are pretty specific about the art classes that they wanted the teacher to handle. And I wanted to make sure that the classes that I created were keeping with what they expected in the charter.
Q Did you also have the opportunity to look at the school's handbook?
A Yes.
Q Okay. I'm going to show you a document that we have marked as Plaintiff's Exhibit 2 and ask if you can

identify that document?
A Yes. This looks like it's not the entire school's handbook but portions of it.
Q All right.
MS. BLOODGOOD: Before we go to that, I just want -- Your Honor, I move Exhibit 1, which is the resume, be entered into evidence.
THE COURT: All right. Plaintiff's 1 into evidence without objection; is that correct?
MR. SMITH: Correct.
(Whereupon, Plaintiff's Exhibit No. 1 is admitted into evidence.)
Q (By Ms. Bloodgood) And the handbook that you are looking at, I know that is only portions of it, but would you look at the first page?
A First page at the top says it's a disclaimer.
Q Does it talk about whether your employment is at will or by contract?
A Yes. There are two paragraphs here. And the second paragraph, the fist sentence of the second paragraph says that, employment with the Charleston Charter School for Math and Science is at will.
But then at the bottom of that paragraph it says, any contract stating otherwise must be in writing and signed by the chair of the board or other

authorized officials.

Q And did you in fact sign a contract that was later to contradict that at will statement in that employee handbook?

A Yes, I remember the date was August 5th, 2010.

MS. BLOODGOOD: Your Honor, at this time I'd like to move Exhibit 2 into evidence.

THE COURT: Plaintiff's 2 into evidence without objection.

MR. SMITH: Yes.

(Whereupon, Plaintiff's Exhibit No. 2 is admitted into evidence.)

Q (By Ms. Bloodgood) Okay, now let me show you the contract and ask you if you can identify Exhibit 3?

A Yes. This is the contract that I signed on August 5th. It was signed by both myself and the principal, Ms. Kirshtein.

Q All right. And this is the contract that you signed which allowed you to do what?

What were you doing under this contract?

A This contract allowed me to be a full-time teacher at the school for the school year 2010/2011.

Q All right. And what was your understanding when you signed the contract?

A That this was a contract that guaranteed my

employment for the year 2010 to 2011. Because I had a job, you know, a full-time job even though I wanted to go into teaching. You know, I felt that this contract gave me some of sort protection for leaving my other job and accepting this teaching position.

Q Because you actually left a job to take this teaching position, correct?

A Yes, I did.

Q And when you signed the contract, did you have any conversation with the principal about your employment as an art teacher at the school?

A Yes. She was, you know, very nice and was hoping that I would stay with the school, you know, more than just this one year.

Q Tell the jury what she told you about staying at the school longer than a year?

A Well that they, you know, that she had the art teacher that was there previously that left abruptly. And that, you know, she was hoping that I would stay on to really help develop the art curriculum.

The sample art class plan that I had given the teacher, excuse me, the principal was like a cross-curricular plan because I wanted to -- my goal was to draw on different subjects that the students were studying throughout the year and integrate that

into art. You know, so that it was like I said it would be cross-curricular art program.

Q And were -- was there any construction going on at the school at this time?

A Yes. As far as I know it still is. The charter school right now is in a set of trailers. It's on the campus for a middle school that is being renovated.

And after I was hired by Ms. Kirshtein, we took several trips to the school that is being renovated where they have a huge art studio. We talked several times about how we could utilize that space.

And I actually sat in on one of the -- gosh, I don't remember the name of the committee -- there was a committee with the school that was handling the, or helping with the oversee the renovation of the middle school. And I sat in on one of their meetings because I wanted to make sure that the art studio was being considered as, you know, to stay intact.

Q Okay. And at this time when you were working in the school in the beginning and having these conversations, was it your impression that you were only going to work one year at the charter school?

A No. My impression was that I could stay there, I could continue my employment there as long as I so desired.

Q And you had worked in Miami for seven years?
A Correct.
Q And was that on a year-to-year contract also?
A Oh, yes.
Q Now if you'll pick up Exhibit 3, which is the employment contract. There is a clause in there about it being contingent on funding and enrollment. Would you read that to the jury?
A The last sentence of the contract says: This employment agreement is contingent on funding and enrollment, as well as the said teacher meeting certification and other requirements to teach designated courses.
Q And at the time you started teaching, to your knowledge was there sufficient funding to pay your salary?
A Yes. They -- there is a second paper that the principal gave me that listed my salary. So with that and the contract, I had no reason to believe that the school did not have enough money to pay my salary.
Q And were there enough students in your class to make it worthwhile to teach the art class?
A Yes.
Q Nobody ever said, we may not be able to hire you because there are not enough students, did they?

A No. No there were always enough students there.
Q What did you teach besides art?
A Yearbook.
Q Yearbook, okay. Is there anything on that contract which says that you are going to be fired if the principal decides to give your salary to someone else?
A No, there is nothing on here that says that.
Q Let me show you a document which we have marked as Plaintiff's Exhibit 4, and ask you if you can identify that document?
A Yes. This is the second document that I received and signed on the same day that I signed my contract. And this lists what my yearly salary would be. It says that I will be full-time. And it also says when they -- when I would be paid, the days of the month that I would receive my paycheck.
Q Does that indicate that you are part-time or full-time employee?
A Full-time.
Q Does it indicate whether you are hired for half a year or full year?
A This says yearly, because my salary is listed as yearly.
MS. BLOODGOOD: Your Honor, I would move

Exhibits 3 and 4 into evidence. 3 is the contract and 4 is the terms of employment.

THE COURT: Any objection?

MR. SMITH: No objection to No. 3. Exhibit No. 4 is subject to our earlier objections.

THE COURT: All right.

Plaintiff's 3 and 4 into evidence. You may continue.

MS. BLOODGOOD: Thank you Your Honor.

(Whereupon, Plaintiff's Exhibit Nos. 3 and 4 are admitted into evidence.)

Q (By Ms. Bloodgood) I'm going to show you a few other documents that have to do with the beginning of your employment. I'm going to show you a document we've marked as Plaintiff's Exhibit 5. Can you identify that for the jury?

A Yes. This is my confirmation of employment that the school sent to the Department of Education in Columbia confirming my employment because this allowed me to stay in the PACE program.

Q All right. So the school knew you were in PACE program when they hired you?

A Yes.

Q They knew they had obligations that they had to fulfill to the state in order for you to be in the PACE

program, correct?
A Yes.
MS. BLOODGOOD: Your Honor, I move that Exhibit 5 be moved into evidence.
THE COURT: Any objection?
MR. SMITH: No.
THE COURT: Plaintiff's No. 5 into evidence without objection.
(Whereupon, Plaintiff's Exhibit No. 5 is admitted into evidence.)
Q (By Ms. Bloodgood) I'm going to hand you another document which we have marked as Plaintiff's Exhibit 6 and ask you what that document is?
A This is from the South Carolina Department of Education, and it was sent to Ms. Tolbert who handles the human resources for the school. And it's confirming that they received my confirmation of employment, that the PACE program in Columbia received my confirmation of employment.
Q Okay. And that was necessary for you to continue in the PACE program, correct?
A Yes.
MS. BLOODGOOD: Your Honor, I would move Exhibit 6, which is the letter dated October 25, 2010 be moved into evidence.

MR. SMITH: No objection.

THE COURT: Plaintiff's 6 into evidence without objection.

(Whereupon, Plaintiff's Exhibit No. 6 is admitted into evidence.)

Q (By Ms. Bloodgood) How long did you teach at the defendant school?

A I taught from August 5th to December 17th, 2010.

Q Okay. And did you get any feedback on how you were performing as a teacher?

A I looked at very positive feedback from my students and parents of the students.

Q Did anyone, any supervisor, any teacher, any administrator like the principal, ever have any problems with any of your classes?

A No.

Q Were you able to do anything on your own to help the charter school while you were a teacher?

A Yes, actually because I was running low on funds for art supplies, so I applied for a grant for funding for art supplies. And I actually received the grant.

I think there were maybe seven schools in the state that received grants. And unfortunately I had to return the grant because I was fired, and I wasn't able to utilize it.

Q I'm going to show you an email from November of 2010. It has been marked as Plaintiff's Exhibit 7, and ask if you can identify that email?

A This is an email about the PACE classes. As I said, you know, I would have needed to take ongoing mandatory classes from PACE. This is a reminder that I would have had to register by December 6th to take the classes that were going to be held just prior to the Christmas break, and then over the Christmas break in December of 2010.

Q Were you ever able to take those classes?

A No. I had to contact the PACE program after December 1st and tell them -- I'm sorry -- that I was fired, I couldn't do it anymore.

Q You were fired December -- do you remember the day that you were fired?

A December 1st.

Q Let's change the subject a little bit. Do you know what a charter is?

MS. BLOODGOOD: And, Your Honor, I'd like to move Plaintiff's Exhibit 7 into evidence.

THE COURT: No objection?

MR. SMITH: (Affirmative head shake.)

THE COURT: Plaintiff's 7 into evidence without objection.

(Whereupon, Plaintiff's Exhibit No. 7 is admitted into evidence.)

Q (By Ms. Bloodgood) Ms. McNaughton, do you know what a charter is?

A Yes. A charter is, it's a document for a charter school that lists all the rules and regulations for the parents and the teachers and the students and the public.

Q I think you testified earlier that you read the charter before you started teaching at that school?

A Yes.

Q Why did you read it?

A As I said, I wanted to familiarize myself with the school. And, you know, when I taught in Miami it was just a regular school and it wasn't a charter school, so I wasn't too sure on how charter schools operated.

Q I have marked as Plaintiff's 8 portions of the charter, not the whole thing because it's a big document. Do you recall?

A Yes. I think it's 150-some pages.

Q In fact what I am handing you as Plaintiff's Exhibit 8 says 1 of 151, so that's the first page.

Can you identify, flipping through, that is a portion of the charter?

A Yes, it lists the mission statement. And also there are descriptions in here about the art classes. As I said before, it's pretty specific about the type of art classes that the school expected the art teacher to teach.

So once I saw it, I wanted to familiarize myself with that so that I could be sure that I was complying with that charter.

Q I'm going to flip through a few of those things with you. Look at the first page, if you would, page 1. Is that the mission statement of the school?

A Yes.

MR. SMITH: Objection, Your Honor, could we approach?

THE COURT: You may.

(Whereupon, the following discussion was held at the bench.)

MR. SMITH: We earlier discussed keeping it out for certain reasons. Testimony has been elicited that would keep it out under the parole evidence rule and the merger rule. Each of those rules say if you look at documents, if you look at things before you sign a contract, the rule is all those things are merged into the contract. You cannot bring it in.

She testified she performed the contract in

August. She saw all these documents before then. Therefore, they're inadmissible as a matter of law because anything she wants in that contract is in that August 5th, 2010 document under both the merger rule and the parole evidence rule.

MS. BLOODGOOD: Actually, the contract makes reference to the employee handbook, and the employee handbook is almost identical to the charter. They're all relevant documents.

THE COURT: This is on the record so your objection is preserved.

I'm going to allow it.

MS. BLOODGOOD: Thank you.

(In open court.)

THE COURT: Plaintiff's 8 in evidence over your objection. Your objection is noted. Thank you.

(Whereupon, Plaintiff's Exhibit No. 8 is admitted into evidence.)

Q (By Ms. Bloodgood) Ms. McNaughton, on the first page of the charter, portions of the charter that I have shown you, is there a mission statement?

A Yes.

Q And are teachers mentioned in that mission statement?

A Yes. Near the bottom, the second paragraph it

says, create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site, and assist South Carolina in reaching academic excellence.

Q And this job that you got at the charter school was creating a new opportunity for you to be a teacher, wasn't it?

A Yes, definitely.

Q If you would turn to page 40. And then also look through pages 62 to 65. What do those pages talk about? What are they addressing?

A These are electives that the school requires. And it talks about like the format, as I said before, the content that the classes will have to include.

Q Some of those classes are art classes, aren't they?

A Yes. It says art, 6th, 7th, and 8th grade.

Q And if you look at page 118 to 120, did the school also represent to the Charleston County School District, parents of the students, and the teachers, that it was going to teach art in high school?

A Yes.

Q And did you rely on that charter and the fact that the school put out to you when you were hired that it was going to teach art when you took the job?

MR. SMITH: Objection, Your Honor, there is no promissory estoppel claim in this lawsuit.

THE COURT: Rephrase your question, Ms. Bloodgood.

Q (By Ms. Bloodgood) When you applied at the charter school, did it matter to you that in the charter the school represented it was going to teach art classes?

A Yes, absolutely. You know, it's part of their charter and I assumed that in order to continue as a school that they had to follow their charter. So I just assumed that they were going to -- that these classes were a permanent part of the curriculum.

Q Now on pages 130 to 143, if you'll just review those quickly. What are those pages addressing in general? Just go through the issues that are on there.

A The employment process. It looks like how the -- it sort of gives different ways that the school might recruit teachers.

And then also that the -- it says that the applicants will be reviewed by the teachers and the administration of the school. And it talks about the school using, will follow the ADEPT system for teacher evaluation. And that the -- and how the teachers will be evaluated.

Q All right. While you were teaching at the school between August and December, were you ever evaluated under the ADEPT program?

A No, I was never evaluated.

Q Did anyone ever come into your class to see how you were doing?

A Ms. Kirshtein walked through. She walked through once to ask me about creating an ad for the school to put in the newspaper. But I was never, ever evaluated.

Q Is there, on those pages is there also some information addressing why a teacher could be fired?

A There are terms and conditions of employment. And then there is a section on grievance and termination procedures, teacher employment and dismissal procedures.

Q What are the teacher dismissal procedures? What does a teacher have to do to get dismissed from teaching?

A You have to do something pretty egregious.

Q Can you read the provisions under teacher dismissal regarding what a teacher would have to do to be dismissed?

A Let me see here it has -- I'm not sure where that says that in here.

Q Would you look at page 138, the bottom, I think you'll find it there.

A Oh, here it is. It's page 139. It says, there are a few basic rules that should not be violated under any circumstances. Violation of these basic rules may lead to discipline up to and including immediate termination. Substance abuse, insubordination, bad attitude, poor performance, theft, threats, and weapons in the workplace, harassment, absenteeism, tardiness, misuse of property, fraud, dishonesty, false statements, violation, and/or lack of enforcement of school rules, and breaching confidentiality.

Q Were you ever accused by anyone at the charter school of engaging in any of that activity?

A No, never.

Q So none of those reasons for immediate dismissal would apply to you, correct?

A No.

Q Tell the jury what happened in December, early December of 2010?

A On December 1st, it was, I believe it was a half-day of school. So I remember it was in the afternoon. And Ms. Kirshtein called me into her office and told me at that time that she was terminating my position because she was going to use my salary to pay

for another teacher, to hire another teacher.

Q Let me show you an exhibit that we have marked as Plaintiff's Exhibit 9 and ask you if you can identify that. And I can take 8.

A Okay. This is a follow-up letter dated December 2nd addressed to me and signed by Ms. Kirshtein summarizing the meeting that we had on December 1st.

Q And does it state anywhere in that letter that you are being laid off?

A No. She never said that I was being laid off.

Q What was the reason why she was getting rid of you?

A She said that she had to hire a math teacher, a new math teacher, and that they -- the only way that they could pay for a new math teacher was by taking my salary and using it to pay for the next teacher.

Q What was your reaction when she told you you were being terminated?

A I was shocked. I started crying when I left there because I knew that I would not be able to fulfill my PACE requirements. I didn't know how I was going to try to find another teaching job after being fired in the middle of the year.

Even with this letter, it looks very bad for an induction teacher to be fired like that.

Q Did any of your student ask you why you weren't going to be working there?

MR. SMITH: Objection, Your Honor, hearsay.

THE COURT: Well, that doesn't require -- the next question would probably be a hearsay question.

I am going to allow this one, but please make sure that you don't elicit hearsay.

Q (By Ms. Bloodgood) Let me ask you a question. Did your students approach you and ask you why you were leaving?

A Yes. I --

MR. SMITH: Objection, Your Honor, she is --

THE COURT: You've answered the question.

Ms. Bloodgood, she has answered. Move on.

A Can I answer the question?

Q (By Ms. Bloodgood) I'm going to ask you another question.

A Okay.

Q When your students approached you, what did you observe about them after they learned you had been terminated? What did you see? What did you observe?

A I stayed on for the next two weeks until December 17th, right before the spring break. And I don't know if Ms. Kirshtein ever told the parents that I was leaving, or the students, but my students started

asking me during class why I had been fired. And they asked me what I did.

MR. SMITH: Objection, Your Honor.

THE COURT: Sustained.

Q (By Ms. Bloodgood) You cannot say what the students said to you, okay?

A I'm sorry.

Q All right. Let me show you an email that we have marked as Plaintiff's Exhibit 10 and ask you if you can identify that. But before you do, I'd like to move termination letter, which is Exhibit 9, into evidence.

THE COURT: Any objection?

MR. SMITH: None.

THE COURT: Plaintiff's 9 into evidence without objection.

(Whereupon, Plaintiff's Exhibit No. 9 is admitted into evidence.)

Q (By Ms. Bloodgood) Ms. McNaughton, what is Plaintiff's Exhibit 10 that I handed you?

A This is an email sent on December 5th, Sunday December 5th that Ms. Kirshtein to all of the staff, all the teaching staff at the school saying that they -- she has had hired an additional math teacher to start December 13th, and that I will no longer be

teaching at the school.

Q All right.

MS. BLOODGOOD: Your Honor, I'd like to move the email that is marked as Plaintiff's Exhibit 10 into evidence.

MR. SMITH: No objection.

THE COURT: Plaintiff's Exhibit 10 into evidence without objection.

(Whereupon, Plaintiff's Exhibit No. 10 is admitted into evidence.)

Q (By Ms. Bloodgood) Subsequently did you receive a letter of recommendation from the school?

A Yes, I did.

Q Let me show you what has been marked as Plaintiff's Exhibit 11 and ask you if you can identify that document?

A This is a letter of recommendation that I received from Ms. Kirshtein on December 20th.

Q And is she recommending you as a teacher?

A Yes. She says in the last paragraph that, any school that is able to benefit from Cynthia's compassion and talent will be lucky. If you need to contact me regarding this reference, please email as that is the best form of communication for me.

MS. BLOODGOOD: I'd like to move this

recommendation letter, which has been marked as Plaintiff's Exhibit 11, into evidence.

MR. SMITH: No objection.

THE COURT: Plaintiff's 11 into evidence without objection.

(Whereupon, Plaintiff's Exhibit No. 11 is admitted into evidence.)

Q (By Ms. Bloodgood) When was the last day you taught?

A December 17th.

Q After that were you -- did you challenge your termination in any manner?

A Yes. I started reviewing the school's grievance and termination policy and the handbook and realized that there was a grievance procedure. And I felt that I has been wrongly and unjustly fired.

So I started the first step for the grievance procedure.

Q All right. And what was the first step?

A The first step was to contact Ms. Kirshtein and ask for a meeting with her, telling her that I felt that I was unjustly fired.

Q And did you have that meeting?

A Yes. I had it on the middle of January.

Q And in the middle of January, did Ms. Kirshtein

tell you anything new or anything different about your termination?

A Yes. She said that I wasn't fired, that I was laid off instead of being fired. That the school had a legal right to move funding around as they wanted. That I was an at-will employee so she could do whatever she wanted.

Q And had you ever heard, had she ever told you before this the reason she fired you is because you were an at-will employee and she could do whatever she wanted?

A No. That was the first time. And when she said that I said, well, you know, I signed a contract. And that as far as I knew that the fact that I had a contract meant that I was not an at-will employee.

Q And was this the first time you heard that you had been laid off?

A Yes.

Q Do you know whether or not the school has a layoff policy?

A I didn't see any layoff policy in there. There are grievance and termination policies. And there was no one else in the school that had been laid off or supposedly laid off. I was the only one.

Q No one ever called you from the school and said

come on back, we have got money, you can be the art teacher again?

A No. Then what made me feel even worse was that they hired another art teacher for the following year.

Q And you were available, you could have returned to work then, couldn't you?

A Yes.

Q Were you working at that time?

A No.

Q Did you question whether or not you had really been laid off?

A Yes. And as I said Ms. Kirshtein said that the school had a legal right to move the funding around as they wanted. And that, you know, I was an at-will employee, she could do whatever she wanted and I was laid off.

Q She never said she had a lacking of funding, she just said she was moving the funding around, right?

A Yes. She never said that there was -- she just said that she had to take my salary and give it to -- use it to hire another teacher.

Then I found out later after reading the minutes for the board of directors' meeting on their website that there was money available in December when she fired me, that they could have kept me.

Q Did anyone at the school board call you, any of the board members, before you were terminated?
A No. No one from the board contacted me.
Q Did anybody from the school board contact you after you were terminated?
A No.
Q Did the principal ever offer to rehire you the next year when she fired you?
A No, she never offered to rehire me. I also found out that probably about the time I was meeting with her in January that the gym teacher left. And --
MR. SMITH: Objection, Your Honor. She is testifying to hearsay.
Q (By Ms. Bloodgood) Do you have personal knowledge that the gym teacher left?
A Yes, and they put the business teacher.
THE COURT: Overruled.
A Instead of hiring another gym teacher, they used the woman that was teaching business classes to teach gym classes. I thought well if a business teacher can teach gym, why wasn't I offered that job.
Q Because you could have taught gym. If they had asked you to, would you have taught it?
A Absolutely.
Q Did you try to contact anyone at the school

board to complain when you got fired?

A Somewhere along the grievance process I had to contact -- I think I had to contact the woman who is the chair of the board of directors. Then she sent me a letter back saying that I didn't have any standing for my grievance procedure and that was it.

Q All right. And now after you were fired, could you find a job right away?

A No. Well I was able to find a part-time teaching job for part of this past year because I really wanted to try to stay in teaching. But it was only for two days a week in McClellanville. And it wasn't even enough hours for me to stay in the PACE program.

It was what they call a special area. So I wasn't even giving the students grades. And then the principal said that because of his lack of funding that he was reducing that to even one day next year.

Q Have you been looking for a job as a teacher?

A Yes. I have been applying for any openings that I could find.

Q But all you have is half a year teaching experience, not even, correct?

A Not even. Like I said, it looks very bad to say that I lost my job after half a year as an induction

teacher.

Q How about going back and doing graphic design. Have you tried to get a job in graphic design?

A I have. I have been trying to do both. And I have had some interviews for graphic design, but the problem is that the employers that are interviewing me, one, want to know why I left graphic design to try to go teach and they think that I'm not going to stay with it if a teaching job becomes available.

And it has been a couple years since I have been in graphic design, so I haven't kept current with what some of the applications. So at the most I'm trying to find an entry level job again. But then the employers think I'm overqualified for that, or I'm going to leave to teach, so.

Q Do you recall how much money you made at the charter school the first semester that you taught that half year?

A It would have been part of my yearly salary which was 34,000 a year.

Q Would it be reflected on a W-2 or a paycheck receipt?

A Yes.

Q Let me show you what we have marked Plaintiff's Exhibit 12 and ask if you can identify that?

A This is a copy of my last pay-stub the end of December, 2010.
Q Okay. Does it say how much money you made total at the charter school between for the time you worked there until December 31st, 2010?
A It was $10,927.36.
Q Okay.
MS. BLOODGOOD: Your Honor, I'd move that we put Plaintiff's Exhibit 12 into evidence.
THE COURT: Any objection?
MR. SMITH: None.
THE COURT: Plaintiff's 12 into evidence without objection.
(Whereupon, Plaintiff's Exhibit No. 12 is admitted into evidence.)
Q (By Ms. Bloodgood) At some point were you able to get unemployment benefits also?
A Yes. I applied for unemployment benefits immediately.
Q As part of that unemployment process, did you have to keep looking for jobs?
A Absolutely. The unemployment office gives you forms that you have to use for all your job seeking. And then you have to go like every two or three months for eligibility reviews. And you have to bring those

records of job seeking with you and they keep those on file.

Q Let me show you what we have marked as Plaintiff's Exhibit 13 and ask you to identify that for the jury.

A Yes. These are -- this is a copy of all of my job seeking records that I have given to the unemployment office through -- I'm not sure what the date is, it looks like through January 2011. Excuse me, through February of 2012.

Q Are you still looking for a teaching position?

A Yes, I'm looking for both a teaching position and a graphic position.

Q And have you had any interviews?

A A few, not very many. I have had a few interviews. I've had a few interviews even for jobs that are not graphic or teaching, part-time jobs. I thought, well, if I can't find full-time employment, maybe I can work two or three part-type jobs. But none of those have worked out.

Q I'm going to show you what we have marked as Plaintiff's Exhibit 14 and ask you if you can identify that document?

A This is a copy of my tax return for 2011.

Q 2011 would have been the whole year after you

stopped working at the charter school?
A Yes.
Q How much did you make in 2011?
A $16,574.
Q Is that less than half of what you were making at the charter school?
A Yes.
Q Was it much less than you were making as a graphic artist?
A Yes.
MS. BLOODGOOD: Your Honor, I move that we put Exhibit 14 and 13 into evidence.
THE COURT: Any objection?
MR. SMITH: None.
THE COURT: Plaintiff's 13 and 14 into evidence without objection.
(Whereupon, Plaintiff's Exhibit Nos. 13 and 14 are admitted into evidence.)
Q (By Ms. Bloodgood) Now what else happened in December 17th, 2010 when you were without a job and without income?
A I had been in the process of trying to refinance my second mortgage and I had just submitted the last batch of paperwork. And but my mortgage company contacted me and said that they were missing a few

documents and I had to tell them at that time that I was unemployed so I couldn't pursue that.

Subsequently, you know, my mortgage has gone into collections. My credit is shot. I don't have any credit cards anymore. I had to put my student loans into deferment so when that happens then the interest is automatically capitalized and starts accruing.

Q How about health insurance, did you lose your health insurance?

A Yes. I tried to maintain my COBRA payments for a few months after I was fired, but they are very expensive so I wasn't able to keep those up.

Q How about did you go without insurance?

A Yes, until I took the part-time teaching job in McClellanville I didn't have any health insurance, so. I was able to get that because I was teaching part-time, but that meant that about half of my paycheck was going to my health insurance.

Q Okay. Are you going to have health insurance if you stop working at the job in McClellanville?

A No, I won't.

Q It's only one day now a week?

A Yes. I mean, you know, I probably won't be teaching there next year because it's only one day. And the principal wasn't even sure because of his

budget if he could keep it for one day. So I cannot afford the gas to drive to McClellanville for one day of work.

Q And that one day is not going to help you with PACE?

A No. Even the two days weren't enough to keep me in the PACE program.

Q Would you have gotten retirement if you had stayed with the charter school?

A Yes. As a state employee it's actually mandatory that you pay into the state retirement fund.

Q Do you think that you are ever going to be a certified teacher in South Carolina?

A No, at this point I don't think so. I don't think it's going to happen. I'm sorry. I don't think it's going to happen.

Q When you were looking into being certified, did you check and find out what certified teachers make and how much you would make until you retired?

A Yes.

MR. SMITH: Objection, Your Honor, calls for speculation.

MS. BLOODGOOD: I asked her if she --

THE COURT: Counsel, I don't want speaking objections.

Overruled, you may answer.

A Yes, the county school district has a teacher salary schedule posted online.

Q (By Ms. Bloodgood) Okay. I'm going to show you a document that we are not going to put it into evidence, but I just want to ask you what that document is.

A This is the teaching salary schedule from the school district, the county school district. And it tells you what you make year by year depending on your credentials. If you have a doctorate degree you make more. If you have a master's degree you make more.

Then as soon as I would have finished my coursework, the second year I would have been teaching, I would have automatically started receiving an increase in salary.

Q What was your intention? How long did you want to teach?

A Until I retired.

Q How many years would that be?

A Well if I'd stayed at the school that was two years ago, it would have been at least 11 or 12 years. If I taught until I was 65 or 67.

Q And you are otherwise healthy?

A Yes.

Q There is no reason you couldn't teach until you are 65?
A No.
Q I'm going to show you a chart of damages I -- let's go over these for the jury.
MR. SMITH: Objection, Your Honor, to the jury seeing the chart until it's been testified to.
THE COURT: All right, counsel, approach.
He's objected to your chart, so flip it over.
(Whereupon, the following discussion was held at the bench.)
THE COURT: You are objecting to her putting her chart out?
MR. SMITH: To putting evidence in front of the jury on a chart. It's not in evidence.
MS. BLOODGOOD: I'm not putting it into evidence.
MR. SMITH: We are talking about a chart with numbers on it.
THE COURT: Okay. You are going to have her testify. Do you have those documents somewhere? Are you admitting --
MS. BLOODGOOD: She will testify to a lot of it, and the other documents she has looked up and she will testify to. I'm not making up the numbers.

Most of the documents, like the lost salary, is on her -- you can tell what that will be from the W-2, the payroll record, that's half her salary. So I have the documents.

MR. SMITH: There is another issue. They're claiming future damages. In the state of South Carolina, you have an expert that has to reduce those to present-day value. They have not even named an expert in this case.

THE COURT: What is on the chart?

MS. BLOODGOOD: The chart has her out-of-pocket costs.

THE COURT: Go get it for me.

MS. BLOODGOOD: Okay. This is a copy of it. And the second page too.

THE COURT: Okay, you are objecting to?

MR. SMITH: I haven't seen it before.

THE COURT: That would be --

MR. SMITH: If she has the documents to show these things, then I will rethink my objection. If you are claiming future damages in this state, then you have to be able to prove them, reduce them to present-day value by using an expert, otherwise you cannot get them.

MS. BLOODGOOD: Present value you can get on a

computer. There is nothing that says I need an expert. All she has to do is testify what the chart on the Internet says is the salary. I have that number.

She is going to say, this is what I could have made. It's up to the jury to decide if they want to believe it or not.

MR. SMITH: Your Honor, our interrogatory responses, I have never seen any of this. We asked for compensation damage.

THE COURT: You are not going to use the chart. We will argue it out of the presence of the jury and we are not going to use it now.

(In open court.)

Q (By Ms. Bloodgood) Okay. Ms. McNaughton, what was the total amount that you were paid by the Charleston Charter School? Your salary?

A About $10,000.

You mean for the year?

Q Yes.

Let me show you this, this might help. This is Plaintiff's 12.

A I'm sorry, the year-to-date was -- the net pay was $10,927. And the year-to-date was $15,472.

Q Okay. Is that the gross -- what was your salary?

A My salary was.
Q Let me show you Plaintiff's 4. What was your yearly salary?
A My salary was $34,040 a year.
Q Okay. And of that $34,040 had you been paid approximately half of it by December when you stopped teaching?
A Yes.
Q So the amount that you had not been paid from your contract was what?
A About $17,000 approximately, 18,000.
Q Okay. Did you have to, after you were terminated, did you have to purchase COBRA insurance?
A Yes.
Q And COBRA insurance is just a continuation of health insurance; is that correct?
A Yes.
Q How much did it cost you to have to pay for that COBRA insurance?
MR. SMITH: Objection, Your Honor, best of evidence rule.
THE COURT: Overruled.
A It was well over $200 a month. I would say about $250 a month.
Q How many months were you able to afford the

COBRA coverage?

A Just a couple months. I had a little money in savings. Then when I realized what I would be receiving on unemployment benefits I had to stop, I couldn't afford it.

Q Did you lose any money in your retirement account?

A Yes. I had to withdraw I think it was about $800 that they had let me take out, $800 of what was in there so that I could use it for expenses.

Q Was the 800 the money that the charter school had put in from the time you started working until December?

A There was actually more money in there, but that was all I was allowed to withdraw.

Q Okay. If you look at the exhibit that I showed you which is your paycheck?

A Uh-hum.

Q That's number what?

A 12.

Q Number 12. Does it say on there how much the school contributed to your retirement?

A The total was just over $1,000.

Q So if you had stayed there the other half a year, would there have been another $1,000 contributed?

A Yes.

THE COURT: Is that a yes?

THE WITNESS: Yes, sorry.

Q (By Ms. Bloodgood) Did you go back into your personal documents and look at, determine how much money extra you have to pay on student loans from not paying them for the last year or so?

A Yes, I actually --

MR. SMITH: Objection, best evidence rule. The document is the best evidence if she had to pay more money.

THE COURT: Sustained.

Q (By Ms. Bloodgood) Did you -- are you able to go on to the computer and check your loan history?

A For my student loan?

Q Yes.

A Yes, I just did because I am going to have to, I think next month I will have to try keep them in deferment because I can't afford to pay on them.

So I have two student loans and they have both, because they have been in deferment now I have a total of about $2,500 of additional interest on it.

Q And you know that from looking on the computer and checking it recently?

A Yes, I just logged on.

Q That is $2,500 that's a result of you not paying those loans because you are not employed, correct?
A Yes.
Q Have you had to incur any medical expenses that are not covered because of the fact that you've had no insurance?
A Yes. I got sick last fall. And then just this last month I'm recovering from bronchitis. And I had to pay out of pocket for --
MR. SMITH: Objection, Your Honor, best evidence rule. If she had to pay money, pay bills, the best evidence is the documents.
THE COURT: If she knows exactly how much she paid she can testify to it.
Counsel approach.
(Whereupon, the following discussion was held at the bench.)
THE COURT: I have given you a lot of leeway about testifying. Where are the bills? Where are the receipts? I have given you a lot of leeway.
MS. BLOODGOOD: Okay.
THE COURT: So you need to pick your next questions wisely.
MS. BLOODGOOD: All right, thank you.
(In open court.)

Q (By Ms. Bloodgood) Based on the information that you looked at online and what your teacher salary would have been if you had been a certified teacher.
A Uh-hum.
Q What would your teacher salary have been if you had become certified?
A For the -- you mean like after the second year?
Q Yes.
A It went up yearly. It would have gone up to about 35,000, 36,000 I think for the next year or so after that.
Q And did you look -- and where are you getting this information as to what certified teachers make?
A From the Charleston County School District website.
Q And did you look and see what you would make for the next ten years prior to the time that you would retire?
MR. SMITH: Objection, Your Honor, best evidence rule. She is testifying about the documents.
THE COURT: She needs to lay a better foundation, Ms. Bloodgood, thank you. Sustained.
Q (By Ms. Bloodgood) Okay. Is this public information that's on the website?
A Yes. You don't have to be a teacher to log into

that part of the county school district website.
Q Because this is what teachers around the state make?
A About, yes.
Q And from reading that website and looking at the public information, what is your understanding of what you would, approximately -- I know we don't know what the cost of living would be, and some of this is a little bit of a guess -- but what did you think your salary, generally what was your salary going to be while you were a certified teacher in South Carolina?
MR. SMITH: Objection, Your Honor, best evidence rule.
THE COURT: Sustained.
MS. BLOODGOOD: Don't answer that question.
Q (By Ms. Bloodgood) How much did you make this year?
A About $15,000.
Q How did you make that 15,000?
A It was all, except for the money that I was able to withdraw from my retirement fund, it was all unemployment benefits.
Q Are the unemployment benefits going to last a lot longer?
A No. They're about to run out probably in the

middle of next month.
Q Then what will your income be?
A I won't have an income unless I can find some sort of part-time work.
Q And you've looked for full-time and part-time work?
A Yes. I'm looking for any kind of work.
Q So in the last two years, each year, what has your salary been?
A About 15,000 a year.
Q Do you have any retirement fund now?
A No, I have no retirement fund and no means of paying for any kind of unexpected emergencies. No savings.

MS. BLOODGOOD: All right. I don't have any other questions. Thank you.

Mr. Smith will have some questions for you.

THE COURT: Madam Foreperson, does the jury need a break?

(Affirmative nod in response.)

THE COURT: Do not begin your deliberations. Do not discuss the case among yourselves. We will take about 10 minutes.

Please rise for the jury.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, you can be seated.

Ms. McNaughton, you may not discuss this case with anyone during our break. Do you understand what that means?

THE WITNESS: Yes, Your Honor.

THE COURT: You may step down. We will take our break.

Anything before we take our break?

MR. SMITH: Nothing from the defendant.

MS. BLOODGOOD: No, Your Honor.

THE COURT: All right, thank you.

Do you have another witness after this ready to go this afternoon? We are moving fairly quickly.

MS.BLOODGOOD: Yes, he is in the hall, Your Honor.

THE COURT: Thank you. For the record, we agreed to sequester the witnesses and it seems like you all are complying with that. Take ten minutes.

(Whereupon, a recess was taken.)

THE COURT: Anything before we bring in the jury?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: Nothing from the defendant, Your Honor.

THE COURT: Please take your seat. I will

remind you that you are still be under oath.

Let's bring in the jury.

(Whereupon, the jurors enter the courtroom.)

THE COURT: Please be seated. Your witness.

MR. SMITH: Thank you, Your Honor, may it please the Court.

CROSS-EXAMINATION

BY MR. SMITH:

Q Ms. McNaughton, pardon my voice if I scratch a little bit, it's kind of dry in here. I'm going to show you some defendant's exhibits for the first half of your cross-exam. I will show you Defense Exhibit 1. Isn't it true that Defense Exhibit 1 is your employment contract with the school?

A Yes, that's true.

Q And that it has your signature?

A Yes.

Q And that you signed it on August 5th, 2010?

A That's correct.

Q Isn't it true you signed only one employment contract with the school?

A Yes.

Q And regarding the contract in your hand, which is Defense Exhibit 1, is it an accurate copy?

A Yes, it looks like it.

MR. SMITH: Your Honor, defendant would move into evidence Defense Exhibit 1.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 1 into evidence without objection.

(Whereupon, Defense Exhibit No. 1 is admitted into evidence.)

Q (By Mr. Smith) Is this blowup an accurate copy of the exhibit in your hand?

A Yes, it is.

Q Let's let the jury follow along as we talk about it. First paragraph reads, Cynthia McNaughton agrees to be a full-time teacher at CCSMS for the school year 2010/2011, correct?

A Correct.

Q And you were hired only for that year, correct?

A Yes, that's correct.

Q And above the signature line it states: This employment agreement is contingent on funding and enrollment, as well as the said teacher meeting certification and other requirements to teach the designated courses, correct?

A Yes.

Q Let me show you a blowup of that. Isn't it true

that you read this contingency in the contract before you signed it?

A Yes.

Q Isn't it true that on August 5th, 2010 when you signed the contract you were not the person who made the funding decisions for the school regarding your employment contract?

A No, I was hired to be a teacher.

Q So isn't it true that you were not the person who made the funding decisions?

A I'm sorry, I don't understand your question.

Q Sure. On August 5th, 2010 the day you signed your contract.

A Yes.

Q You were not the person making funding decisions for your contract, were you?

A No because I hadn't even started working at the school yet.

Q And even after August 5th, 2010, isn't it true that you were not the person responsible for the funding decisions for the school?

A Correct. I was hired to be a teacher, that's right.

Q You know, as you look at this employment agreement dated August 5th, 2010, don't you agree that

if your position was funded for the entire year when you began employment, that this agreement would not contain this contingency?

A Well I assumed that that -- that they had enough money to pay me for the full year and that's why they were giving me the contract for the full year.

Q You assume that, is that what you said?

A Yes.

Q But if it's actually funded for the full year, that contingency wouldn't have been in there, would it?

A I don't know that. All I know is that the school gave me a contract for 2010/2011. And they gave me a copy of what I would be making for that year.

So I don't see why they would have offered me a contract for the whole year if they didn't have enough money to pay me for the whole year.

Q Isn't it true that nobody told you when you signed that contract that funding for your position was in place for the entire school year? Isn't that true?

A Wait, I'm confused. I'm sorry, can you repeat that?

Q Sure. Isn't it true that nobody told you when you signed the contract that funding for your position was in place for the entire school year?

A Well the funding was in place for even when Ms.

Kirshtein told me that she had to -- that she was letting me go, firing me in December, there was still money for my position. They didn't have to take the money away, there was still money there.

Q You said she said she was letting you go, is that what you just said?

A She was firing me.

Q Let me ask you the question again so we're clear. Isn't it true that no one told you when you signed the contract that funding for your position was in place for the entire school year? Isn't that true?

A That's true. No one verbally said that there was money for the whole year. But I don't know why the school would have given me a contract for a whole year if there wasn't money to pay me.

Q But you were aware of the contingency, correct?

A Yes. But then -- see this is very confusing because Ms. Kirshtein told me in December that she was taking my salary --

MR. SMITH: Your Honor, she is non-responsive.

THE COURT: Do you want me to control her, or do you want to try to control her.

MR. SMITH: I will be glad to take a look at that, Your Honor.

THE COURT: Thank you.

Q (By Mr. Smith) Let's talk about your relationship with other school employees while you were there.
A Okay.
Q Isn't it true that you got along pretty well with the principal and the staff while you were employed at the charter school?
A Yes, that's true.
Q Isn't it true that Dr. Kirshtein did not berate you or treat you badly in front of others?
A That's true.
Q Isn't it true that Jason Allen, the assistant principal, nor any other member of management treated you badly in front of others while you were at the charter school?
A That's correct.
Q Let's talk about losing your job. You met with Dr. Kirshtein December 1st, 2010, correct?
A That's correct.
Q And during that meeting she told you you were going to RIF'ed or laid off, correct?
A No. At that meeting she did not tell me I was being laid off. At that meeting she said she was taking the money for my teaching position and using it to hire another math teacher. So that meant that there

was enough money there for me for the whole year.

I mean the money was there, but she was taking it to pay -- to hire another math teacher. And then when I looked on the school website at the board of director minutes, there was also money so that they could have kept me even and hired a second math teacher.

MR. SMITH: Your Honor, may I unseal the deposition?

THE COURT: Ladies and gentlemen, testimony is now going to be presented to you by deposition. A deposition is simply a document containing sworn testimony given by a witness outside of court in the presence of lawyers for each party who may ask questions.

This testimony is entitled to the same consideration, and is to be judged by you as to credibility as in the same way as if the witness were present and gave this testimony here today in court.

Mr. Smith.

MR. SMITH: Thank you, Your Honor.

Q (By Mr. Smith) Ms. McNaughton, I'm going to hand you a copy of your sealed deposition which we have now unsealed. Would you please turn to Page 18. I will read the question beginning on line 6 and you'll

read the answers.

Are you on page 18?

A Yes.

Q I will read the question beginning on line 6. My question to you that day was: Did she indicate to you on or about December 1st that you were going to be RIF'ed?

What was your answer?

A I don't know what RIF'ed means.

Q Question: Reduction in force or laid off.

What was your answer?

A Yes. On December 1st, December 1st or December 2nd.

Q So earlier when you said you had been fired, in fact didn't Dr. Kirshtein tell you you were going to be RIF'ed or laid off as you swore earlier in your testimony?

A Well it also says reduction in force.

Q Reduction in force is not fired, is it?

A Well, all I know is that on December 1st Ms. Kirshtein did not tell me that I was being laid off. She told me that she was using the money from my salary to pay for another teacher. And I don't remember her saying, using the term RIF'ed.

Q Isn't it true that Dr. Kirshtein gave you the

option to stay employed until the end of the month?
A Well I actually stayed until December 17th, but I was paid through the end of the month.
Q Let me show you what we have marked as Defendant's Exhibit 3, December 2nd, 2010 letter.
Do you recognize that document?
A Yes, I do.
Q Did you receive it on or about December 2nd?
A Yes.
Q As I look at Exhibit 3, is it an accurate copy of the letter you did receive?
A Yes.
MR. SMITH: Your Honor, we'd offer this into evidence as Defendant's Exhibit 3.
THE COURT: Any objection?
MS. BLOODGOOD: No objection, Your Honor.
THE COURT: Defendant's 3 into evidence without objection.
(Whereupon, Defendant's Exhibit No. 3 is admitted into evidence.)
Q (By Mr. Smith) On December 2nd as it indicates in the fourth paragraph down, it says a new math teacher has been hired and will be reporting to work on December 13th. Is that what she told you?
A Yes.

Q And the next line, can you read the first sentence of the next line to the jury?
A She says, I wish we could afford to keep you as a teacher, which I explained in our conference, but unfortunately we do not have the funding to keep you and hire an additional math teacher for our students.
Q Where does it say that you are being fired anywhere in this letter?
A Well I don't --
Q It doesn't say that, does it?
A -- have a job.
Q It doesn't say you are being fired, does it?
A Well I don't know what else you would call it. If I'm no longer working there, then I don't know what other term to use except fired.
Q As a matter of fact --
A I wasn't laid off. The school never called me back when they hired another art teacher the following year.
Q That's after you sued the school, right?
A No this was after Ms. Kirshtein said that when I started the grievance process in January that then I was laid off. Then she said I was laid off then. She doesn't say I was laid off here.
Q Let's talk about the timeline. December 1st,

2010 you learned you were no longer being employed, correct?

A Yes.

Q And then you went through the grievance procedure, correct?

A Yes.

Q Through the entire grievance procedure, correct?

A That's correct.

Q And in February you sued my client, correct?

A That's correct.

Q And are you telling this jury that you expect to be hired back as an employee after you've sued the school?

A well if they'd actually laid me off I would have expected them to contact me and offer me the job.

Q Did you indicate a moment ago that Dr. Kirshtein had indicated to you in January 2011 you had been laid off, that's when she first indicated that?

A Yes.

Q And you didn't sue until the next month, did you?

A Well after I tried to go through the grievance procedure. But no one on the board would even talk to me.

Q The school did not contest your unemployment

claim, did it?
A No.
Q Let me show you what has been marked as Defense Exhibit 4. Isn't that an accurate copy of a letter of recommendation?
A Yes.
Q And earlier when your attorney asked you questions, she showed you the letter of recommendation from Tammy Kirshtein, right?
A That's correct.
Q But she didn't show you the one from Gail W. Tolbert, did she?
A No.
Q If you would please for the jury, read the fourth sentence down, the last sentence.
A I'm sorry?
Q The sentence begins, I will be pleased.
A I will be pleased to speak to you more about Cynthia's qualifications. The only reason she is still not employed at our school is because we do not have the funding for her to remain in her present position.
Q And you knew that the 1st of December, didn't you?
A I'm sorry, what?
Q You knew that the 1st of December, didn't you?

A Well, yes, because Ms. Kirshtein told me she was using my salary to pay for another teacher.

Q Let me show you what has been marked as Defendant's Exhibit 5. That's the letter from Dr. Kirshtein, correct?

A Yes.

Q Indicating in the last paragraph, first sentence, that any school that is able to benefit from Cynthia's compassion and talent will be lucky, correct?

A That's correct.

Q Are you trying to tell the jury that a school that writes such wonderful letters of recommendation after it fired you?

A Well but they weren't firing me because of my performance. There is no reason for her to not give me a good letter of recommendation. I didn't do anything wrong when I was teaching there.

They -- Ms. Kirshtein arbitrarily decided to take my money and hire another math teacher, and it had nothing to do with my performance.

Q Do you understand we are not contesting your performance in this case? Do you understand?

A Well that's why she gave me a good letter of recommendation.

Q Do you understand the school believes you did a

good job? Do you understand that?
A Yes, I do.
Q You also understand there is a contingency in your contract?
A I understand that. But I still -- but the point is that there was money to keep me and hire another math teacher.
Q Are you in charge of the budget at the charter school?
A No, I'm not.
Q Are you familiar that the year before you were hired were two layoffs and all the teachers received a reduction in pay because the budget wasn't done correctly? Do you know about that?
A No. But I know that there was a full-time art teacher the previous year. And there's a full-time art teacher this year.
Q And you have no expertise in budgets, do you?
A I don't consider myself an accountant, no.
Q Isn't it true you are currently employed at St. James Santee Elementary?
A Yes. I just finished working there.
Q You began that job November 29, 2011, correct?
A Correct.
Q When I took your deposition the last week of

February you were making $27,000 a year, correct?

A No. No. No. That's not correct at all.

That would be for a full-time employee, for a full-time teacher. I was teaching two days a week.

If I said that in the deposition then I didn't understand what you were asking or I mis-spoke because I was only working two days a week there.

And after my deductions I was making $500 a month teaching there.

Q If you would, please, turn to page 29 of your deposition. My question to you, I will begin on line 23. If you'll read the answer, please.

Are you, sorry, on page 29?

A Yes.

Q Line 23. The question that I posed to you: There is an estimated value of PACE completion of $5,000. How do you arrive at that?

And What was your answer?

A Right now my yearly salary is, if you figured out to be yearly salary, would be $27,000 instead of the 34,000 I would be making if I completed the PACE program.

But that's not --

Q That's enough. Next question is fine. This is what you testified to under oath, correct?

A Yes. And I made a mistake. That would be for a full-time yearly teacher. I was not teaching full-time, I was teaching two days week.

Q During the deposition you were directed to answer only those questions you understood, correct?

A Yes. And I, as I said, I made a mistake or I didn't understand the question.

Q And you understood you were under oath, correct?

A Yes, that's correct.

Q And nothing was affecting your memory, correct?

A No. No.

Q If you would turn to page 12 of your deposition. Are you on page 12?

A Yes, I'm on page 12.

Q I'm going to read the question beginning line 18: Is there anything today affecting your memory? What was your answer?

A Such as? Can you be more specific?

Q Question: No. I'm asking you, is there anything affecting your ability to remember? What was your answer?

A No.

Q You testified truthfully that day, correct?

A I'm sorry, what?

Q You testified truthfully that day, correct?

A To the best of my understanding the questions, yes. I would never, ever intentionally lie under oath.

As I said $27,000 would be for a full-time teacher. I was not working full-time. I was working two days a week.

Q Let me show you what has been marked as Exhibit No. 7, ask if you recognize it.

A This was sent to -- it looks like all the board members for the school were copied on this letter.

Q Do you recognize this document?

A Yes.

Q Did you produce it?

A Yes.

Q Is it an accurate copy of the document you sent into the grievance process?

A Yes, it is.

MR. SMITH: Your Honor, we'd move to admit Defendant's Exhibit No. 7 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: No. 7 into evidence without objection.

(Whereupon, Defense Exhibit No. 7 is admitted into evidence.)

Q (By Mr. Smith) If you would, please go to the

third line and read that sentence to the jury beginning with please.

A Please note that Ms. Kirshtein, one, admits that I have a contract. Two, indicates I was laid off, in quotes, due to changing program needs. And, three, that she has switched funds.

Q So before you filed a lawsuit you knew you had been laid off, correct?

A After Ms. Kirshtein told me in January when I first met with her to start the grievance process that I was laid off, or she was calling it a layoff.

Q In your deposition you were claiming $18,567 for the remainder of the 2010/2011 school year, correct?

A Yes.

Q And during your deposition you claimed 34,000 for the 2011/2012 school year, correct?

A Yes.

Q But isn't it true you did not have a contract for employment for the 2011/2012 school year?

A As I testified earlier, Ms. Kirshtein gave me indications that I would be able to continue my employment at the school. There's no reason for me to think that I would not be able to teach there the following year.

Q Please turn to page 27 of your deposition. I

will read the question on page 27 beginning on line 16. If you'll read the answer, please.

On line 2 it says: You are claiming salary for 2011/2012 of $34,040. My question is, did you have a contract with the charter school for 2011/2012?

What was your answer?

A No, I did not. But I had no reason to believe that I would not be rehired for the following teaching year.

Q You're claiming missed mortgage payments in this lawsuit. Is that what I understood from your earlier testimony?

A Yes.

Q You didn't know, you had no contract or agreement with the school, though, in which it agreed to pay your mortgage payment, did you?

A No. But I can't pay my bills, just like everyone else, if I'm not employed.

Q Don't we agree it's you and not the school that's responsible for your mortgage payments?

A Yes. But like I said, if I have no income it's a little bit difficult to pay your bills.

Q And there was no contract or agreement between you and the school whereby the school agreed to pay $12,000 interest on your missed mortgage payments,

correct?

A No. My contract was for employment which would allow me to make my mortgage payments.

Q But there is no contract where the school agreed to pay your mortgage payments, correct?

A No, that's correct.

Q As a matter of fact while you were employed by the school the school agreed only to pay you a salary while you were employed for the 2010/2011 school year, correct?

A That's correct.

Q Subject to the contingency because that's in your contract too, correct?

A I'm sorry, what?

Q Subject to the contingency that there was continuing funding, correct?

A Yes, but there was funding. There was funding for me even after they hired the other math teacher.

Q The school did not agree to pay your COBRA payments, did it?

A No. But I was able to have health insurance while I was employed. I was able to be part of the state -- what the state offered for health insurance.

Q The school did not agree to pay your retirement payments after you were let go, did it?

A No. But once again when I was employed as a teacher it was mandatory that I would pay into the state retirement fund.
Q The school never did agree to pay for your student loan payments, did it?
A No. Once again I can't make my payment when I don't have sufficient income.
Q As a matter of fact, the school agreed only to pay you a salary while you worked, correct?
A Yes, that's correct.
Q Let's talk about PACE for a minute. You have two years to complete PACE, correct?
A I'm sorry?
Q You have two years to complete PACE, correct?
A Two to three years. I was hoping to finish it in two years.
Q And you were hired by the charter school for only one year, correct?
A That's correct.
Q Do you have a contract or agreement you haven't provided my office that shows they promised to get you through PACE?
A No. If I was --
Q Thank you for your response.
A -- if I had been employed for the whole year I

would have been able to complete a good portion of the requirements.

Q As a matter of fact, you were scheduled for a lot of PACE classes in the fall of 2010, weren't you?

A I'm sorry, the what?

Q In 2010 you were scheduled for several PACE classes, weren't you?

A Yes.

Q And the first three you were scheduled for you dropped and didn't attend, did you?

A I wasn't able to attend them any longer because I was not going to be employed any longer. PACE program will not let you take classes unless you have a job as a teacher.

Q And you learned December 1st, 2010 you would no longer be employed, correct?

A Correct. And my last day was December 17th, and I would have had to take the PACE classes were scheduled after that.

Q Nobody at the school physically struck or physically injured you while you were employed by the charter school, correct?

A No.

Q Let me rephrase so we are clear for the jury. Isn't it true that nobody at the school physically

struck or physically injured you while you were employed by the school; isn't that true?

A That's correct.

Q Let me show you what we've marked as Defendant's Exhibit 10. Can you describe that particular document to the jury?

A Yes. This is a list of the job seeking that I have to turn into the unemployment office on a regular basis to maintain my eligibility for unemployment benefits.

Q Looks like you applied for tons of jobs; is that true?

A That's correct. I'm required to apply for a minimum of four jobs a week.

Q And our document request in this case, we asked you for a copy of your employment applications that you submitted. Do you remember that?

A Yes, I do.

Q As a matter of fact you were unable to provide us even one employment application that you filed; isn't that correct?

A It's all employment applications now are done online. And since my deposition I have tried to print out applications and I'm not able to do it unless there is something that you do that I don't know about.

But once you submit it then I can't print them out. And I don't have a printer at home either.

Q Please turn to page 36 of your deposition. I'm going to read the question beginning on line 5: Have you filled out any employment applications since you left the school?

What was your answer?

A Yes.

Q My question: Have you provided those to my office?

What was your answer?

A I said: Not the applications because I don't have them. I provided the list that I have to submit to the South Carolina Employment Security Commission.

Q Isn't it true those employment applications ask why you left your last job or why you are no longer with your last employer?

A No, not at all.

Q How many employment applications have you filled out?

A Tons. You do not always have to put down why you left your last job.

Q But sometimes you do, don't you?

A It depends.

Q And some of those you put down why you left your

last job, didn't you?
A I'm not sure what you are asking.
Q Isn't the reason you didn't provide those job applications to my office is because you didn't list on there you were fired wrongfully; isn't that true?
A Are you asking me if I put that I was fired wrongfully on my job applications?
Q No. Isn't it true that the reason you didn't provide my office any of the applications we demanded is because you did not put on them that you were wrongfully fired; isn't that true?
A I don't understand the question. Because I did not put on the application that I was wrongfully fired?
Q Yes. You did not put on the application that you were wrongfully fired, correct?
A If they asked why I left my last job I always say it's because the job was eliminated. That's what I put, that the position was eliminated. Which --
Q Which is true, isn't it?
A Well Ms. Kirshtein took my job away from me and then used my money to hire another teacher, so.
Q She's the principal, correct?
A Yes.
Q And for a charter school that's a CEO because she has nobody to report to, correct?

A My understanding is that she is supposed to report to the board of directors.

Q Let's talk about your breach of contract claim. When you alleged in this case that the school breached your contract, you are talking only about the one-year contract we put up here, correct?

A Yes.

Q Bear with me just one second. Let me show you what has been marked as Plaintiff's Exhibit C to your deposition. Do you recognize that?

A It looks like the charter for the school.

Q It's the same charter you put into evidence earlier. Do you see that?

A I'm sorry?

Q It's the same charter you put into evidence earlier. Do you see that?

A Well I think my attorney had parts of it, not the whole thing.

Q And that's the whole thing, isn't it?

A Yes.

MR. SMITH: Your Honor, we'd offer to move the entire charter into evidence.

THE COURT: All right.

Have you marked it as evidence?

MR. SMITH: It has not been pre-marked yet. It

will the our last exhibit which will be.

THE COURT: Let's ask the Court Reporter. Madam Court Reporter, this exhibit will be?

THE COURT REPORTER: Number 40.

THE COURT: Thank you. Defendant's 40, any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 40 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 40 is admitted into evidence.)

Q (By Mr. Smith) Let's turn to Plaintiff's Exhibit 2. Do you have it in front of you?

I have got it. Let me hand it to you. That's already been entered into evidence as the handbook in this case, correct?

A Yes.

Q If you would, please turn to page 31.

MR. SMITH: May I approach the witness?

THE COURT: You may.

Q (By Mr. Smith) Earlier you read that there was tons of what you called rules for teacher employment and dismissal procedures, correct?

A Yes.

Q And you read for the jury that violation of

these basic rules may lead to discipline up to and including immediate termination, correct?

A Correct.

Q And you listed substance abuse, insubordination, bad attitude, all that entire list, correct?

A Correct.

Q And you weren't charged with any of those at the school, were you?

A No.

Q You didn't read the next sentence, though, did you?

Please read the next sentence.

A Says, this list is not all inclusive, and there may be other circumstances for which employees may be disciplined, up to and including termination.

Q And what does the next sentence say?

A CCSMS retains the discretion at all times to immediately terminate an employee or decide what level or type of discipline is warranted if any.

I wasn't disciplined for anything.

Q You were laid off, correct?

A I was fired. But I wasn't disciplined because -- they didn't discipline me for anything.

MR. SMITH: Thank you for answering my questions.

That's all I have for this witness.

THE COURT: Redirect.

MS. BLOODGOOD: Thank you.

REDIRECT EXAMINATION

BY MS. BLOODGOOD:

Q Ms. McNaughton, most of the exhibits you were asked about were exhibits we've already marked. There was only one I think was Defendant's Exhibit 7. Do you have that in front of you? Defendant's Exhibit 7?

A Yes, I do.

Q And that is your grievance letter dated January 21st, 2011 to the board?

A Correct.

Q And you read the beginning part of it, the middle part of it. Would you go ahead where it starts -- read the rest of that letter out loud to the jury where it's starts with, Ms. Kirshtein.

A Ms. Kirshtein admits the funding is still in place. She has just, in quotes, switched it. This is the first I have heard of a layoff, so I would like a copy of the school's layoff policy as there is none in the handbook.

I assume the board would have to have a layoff policy to vote on a layoff before it could happen. Did that occur, and who else was laid off?

Please include the new layoff issue and the scope of any investigation that the school's personnel committee makes when it reviews my grievance appeal.

Q Did anybody at the school board get back to you and tell you whether or not there was a layoff policy or if you were laid off?

A No. And I remember that I was trying to find out what the -- about the school's personnel committee to try to go before the school's personnel committee. I never found out if there even was one.

MS. BLOODGOOD: Thank you, Your Honor, I don't have any other questions.

MR. SMITH: Nothing further.

THE COURT: You may step down. Thank you.

THE WITNESS: Thank you.

THE COURT: Call your next witness.

MS. BLOODGOOD: Your Honor, we call Jason Allen, he is the assistant principal in the school. I think he is in the hall.

MR. JASON ALLEN,

after having first been sworn to tell the truth, the whole truth and nothing but the truth testified on his oath as follows:

THE COURT: Ms. Bloodgood, your witness.

MS. BLOODGOOD: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. BLOODGOOD:

Q Mr. Allen, I'm Nancy Bloodgood. I took your deposition, we've met before.

What is your position at the defendant school?

A I'm the assistant principal.

Q And do you recall I took your deposition several months ago regarding this case?

A I do recall.

Q And I asked you some questions in that deposition, I'm just going to ask them to you again so that the jury can hear your answers.

Would you agree with me that when a school enters into an employment contract with a teacher, that the school should take that employment contract seriously?

MR. SMITH: Object to the form of the question, it's leading. It's her own witness.

THE COURT: I'm going to allow it.

You may answer.

A Yes.

Q (By Ms. Bloodgood) Okay. And a school should not harm its teachers if it doesn't have to; is that correct?

A No.

Q They should not harm them or they should?
A They should not harm the teachers. The school should not harm teachers.
Q A school should not deceive its teachers, should it?
A It should not.
Q A school should follow its policies when it terminates a teacher, correct?
A Correct.
Q Should a school follow the policies that are in its charter?
A Yes.
Q Should a school follow the policies that are in its handbook?
A Yes.
Q Would you agree with me that just because a school is a charter school that it still has to follow state law and any public school rules?
MR. SMITH: Object to the question because it asks for a legal conclusion.
THE COURT: Sustained.
Q (By Ms. Bloodgood) Do you recall when I took your deposition I asked you if you thought that a charter school had to follow the law?
MR. SMITH: Same objection.

THE COURT: Sustained.

Q (By Ms. Bloodgood) Tell me this, if a school does not honor a contract for a teacher, what are some of the things that could happen to that teacher?

MR. SMITH: Objection, calls for speculation.

THE COURT: Overruled. You may answer.

A Could you repeat the question, please.

Q (By Ms. Bloodgood) If a school doesn't follow its contract with a teacher, what are some of the things that could happen to that teacher?

A I would not know.

Q Do you recall I asked you that same question when I took your deposition a few months ago?

A I don't recall the question, no.

Q Okay.

MS. BLOODGOOD: Your Honor.

THE COURT: You may open it.

Q (By Ms. Bloodgood) Mr. Allen, I'm going to hand you a sealed copy of your deposition. This was February 29th, 2012, this year.

If you would do me a favor, would you please open to page 23, line 15. My question to you -- I will read the question if you would read the answer, okay.

My question was: What would happen if the school decided though even though they signed an

employment contract with you, they were just going to ignore it. Tell me what would happen, what would happen to you?

A The answer was: Let me think. I would probably -- I don't know. I can't -- I don't know how to answer that question.

Q Then I said: Well, what if the school says, I'm not going to honor your employment contract, go home tomorrow. What would happen?

A It says: Well I'm sure a chain of events would happen.

Q Could you lose your job over that?

A I said: Over being?

Q Could it result in you losing your job if the school does not honor its employment contract?

A Yes.

Q And what would happen if you lost your job?

A I would have to find a new one.

Q Could you lose your health insurance?

A Yes, it's a possibility.

Q Would you have to go on unemployment?

A I could imagine.

Q Could you maybe have to go into your state retirement and pull money out?

A My personal state retirement?

Q Right.
A Probably not, I don't know. I don't know how to answer that question, I really don't know.
Q Would it jeopardize your paying your mortgage?
A I don't know.
Q Could you possibly lose your house?
A I don't know.
Q And then in page 25 I said, line 10: Did you ever know anyone who lost a job?
A Yes.
Q Do you know what happened to them?
MR. SMITH: Objection, Your Honor, relevance.
THE COURT: Sustained.
MR. SMITH: Thank you.
Q (By Ms. Bloodgood) Do you recall testifying in your deposition that when you were young your father lost his job?
MR. SMITH: Objection. Relevance, Your Honor.
THE COURT: Counsel, you can approach.
(Whereupon, the following discussion was held at the bench.)
THE COURT: Okay.
MS. BLOODGOOD: The relevance, Your Honor, is that what she suffered is what happens when you lose a job. And I'm just having their witness testify that

this is what happens when you lose a job. All these things that she has testified to can happen.

And he testified to that in his deposition. I got him to say, yes, all these bad things can happen. And those are consequential damages of losing the job. So I want to use him as a witness to show that these things can happen.

THE COURT: How can he testify?

MS. BLOODGOOD: Because he testified that he had to move as a child when his father lost his job. The bad things that happen when you lose your job.

MR. SMITH: That goes to prove no element of either cause of action that she's offered in her complaint.

MS. BLOODGOOD: It goes to the consequential damages of breach of contract.

THE COURT: I will allow it, proceed.

(In open court.)

THE COURT: Proceed.

Q (By Ms. Bloodgood) Mr. Allen, you've agreed that a school must honor its contracts, correct?

A Yes.

Q And you've agreed that the school and the principal are required to follow the rules in its handbook and the charter, correct?

A As far as I know, yes.
Q And you are the assistant principal. Do you know whether or not the school board is responsible for the principal's actions?
MR. SMITH: Object to the form of the question to the extend it calls for a legal conclusion.
MS. BLOODGOOD: I'm asking --
THE COURT: Rephrase your question.
Q (By Ms. Bloodgood) As assistant principal, you are the assistant principal of the school, correct?
A Correct.
Q Who do you report to?
A The principal.
Q Okay. Do you know who the principal reports to?
A I would imagine the board.
MS. BLOODGOOD: Okay, thank you.
MR. SMITH: No questions of this witness.
THE COURT: You may step down, thank you.
Call your next witness.
MS. BLOODGOOD: Your Honor, I call Ms. Kirshtein.
THE COURT: Okay. Please come forward.

MS. TAMARA BETH KIRSHTEIN,

after having first been sworn to tell the truth, the whole truth and nothing but the truth testified on her

oath as follows:

DIRECT EXAMINATION

BY MS. BLOODGOOD:

Q Good afternoon, Ms. Kirshtein.

A Hello.

Q You agree that Ms. McNaughton had a contract with the charter school, don't you?

A Yes, I do.

Q And the contract that she had was a contract that we have marked as Plaintiff's Exhibit 3, correct? And I will show you that.

A Yes, that's correct.

Q And you also agree that there was money available to pay Ms. McNaughton's salary until you moved that money to another teacher, correct?

A Yes.

Q And had you not hired a new math teacher in December of 2010, there would have been money available to continue to pay Ms. McNaughton under her contract, correct?

A Correct.

Q We have marked previously portions of the school's charter as Exhibit 8 and I would like to show those to you.

A Okay.

Q Do you recognize Exhibit, Plaintiff's Exhibit 8 as portions of the school's charter?

And if it helps you, your attorney marked as Defendant's Exhibit 40 the entire charter document.

A The big one?

Q The big one.

A Okay.

Q All right. And so you can look at either one you feel comfortable looking at, it doesn't matter.

Is a charter an important document for the school?

A Yes, it is.

Q Why is it important?

A Well because a charter is basically what we go off of. I mean every charter school has a different purpose, function, kind of a niche and that's why they're created in begin with.

Q But Charleston County School District considers that charter a contract between your school and the district, correct?

A Yes, they do.

Q And the school has to follow the charter, correct?

A Yes, we do.

Q Would you look at pages 165, 166 in either of

those documents.
A It's not in yours so I will have to look in the other.
Q Okay. You can look at Defendant's 40.
A We don't have -- the charter is 151 pages long.
Q Right.
A I thought you said 165.
Q I'm sorry. I think it's 138.
A Okay.
Q Go to the section, I see yours is highlighted, go to the section that talks about the teacher discipline. Ms. McNaughton was just asked questions about it.
A Under teacher employment and dismissal?
Q Yes.
A Okay.
Q Would you agree that none of the criteria for dismissing teachers applies to Ms. McNaughton?
A All of those that are in the first paragraph that she read?
Q Yes.
A You are correct.
Q And she was never disciplined by you, was she?
A No.
Q So that portion of the charter wouldn't apply to

her at all, correct?
A No, it would not.
Q You never had any performance problems with Ms. McNaughton, did you?
A No, I did not.
Q In fact you wrote her a letter of recommendation which we've marked as Plaintiff's Exhibit 11, didn't you?
A Yes, I did.
Q I will show you 11. Is that the letter of recommendation you wrote for her?
A Yes, it is.
Q Did you tell the truth in that letter?
A Yes.
Q I would like to show you some board minutes which we have marked as Plaintiff's Exhibit 16. And these might be defendant's exhibits here.

I'm going to hand you a document that we marked as Plaintiff's Exhibit 16 and ask you if you can identify that document.
A It's the minutes from the board of directors meeting held on November 15th, 2010.
Q And in November of 2010, did the board approve $72,000 for you to use to hire a social studies teacher and a special ed teacher?

A Yes.
Q Okay. Would you read the part of the board minutes which indicate the board approved $72,000 in November of 2010 for you to hire a special ed teacher and a new social studies teacher?
A It was B. Whitten moves to amend Jason Allen's contract from 10 months to 11 months, and to authorize Tammy Kirshtein to add necessary support staff as a total budget change of 72,000.
Q Okay. Now Jason Allen is Mr. Allen who's the assistant principal?
A Yes.
Q And why was he getting an increase in salary in November of 2010?
A Because he was moved into an administrative position.
Q He was moved from social studies teacher?
A Right. He was moved out of the teacher line into the admin line on the budget.
Q And he was given how much of an increase in salary when that occurred, or bonus?
A He made 40-something-thousand, and the bonus -- the total amount was that his salary was raised to was 50. So half a year had gone, so the difference between the two.

Q $5,000 increase for Mr. Allen for November?
A For the remainder of the year, yes.
Q So November of 2010 the school gave Mr. Allen a $5,000 increase?
A Yes.
Q And did you tell the board in November of 2010 that the school was in a solid financial position?
A Yes.
Q And the board minutes reflect that, don't they?
A Yes. We reconcile our budget every month.
Q In December of 2010, you made the decision to hire another math teacher for the school, correct? For the remainder of the school year?
A Yes.
Q And how much was it going to cost you to hire a math teacher for a semester, the remaining semester?
A Without having it in front of me I would guess approximately 15 -- maybe 17,000.
Q Was about the amount of Ms. McNaughton's, the remainder of her salary for the year, correct?
A Yes, ma'am.
Q And that is why you took her salary to pay for another math teacher for half a year, correct?
A I reallocated the funding, yes.
Q Yes. And this is at the same time that you had

just gotten approval for $5,000 to give Mr. Allen a raise, correct?

A Realize Mr. Allen went into administrative line. The money remained in the teacher line for the replacement social studies person. And then the special ed teacher, that's also another line. They don't go into the teacher line even.

Q We take different lines, so the jury understands, these are different lines of money in your budget, right?

A Right. We have a teacher line which I think is 24, I could be wrong, it might be 23. And then further down several later we have a guidance salary lines, we have nurse line, we have a line for administrative, administrative staff, student support specialist, they're all on different lines.

Q One of those lines you had $5,000 to give to Mr. Allen when you moved him from social studies to assistant principal, correct?

A That came from the student concerns specialist line.

Q And the board also had $72,000 in another line for two more teachers for you, correct?

A No. The social studies line, the social studies line remained in the teacher that was hired. The

special ed, it was moved from another portion of the budget.

Whenever you have to move something from lines, just -- this is just budget stuff for you all -- you can't just move it, you have to get permission. So I had to go to the board to get permission.

I can't -- I don't have the power, you know, if something is in a line, you know, I'm fine within the line. But if it goes above the line or I have to add something to the line, I have to get permission.

So I had to go before the board to request to move from somewhere else to be able to pay.

Q Right. And you moved $72,000 from somewhere else to be able to pay the two teachers?

A Yes.

Q With board permission.

A But it did not go into the teacher line. Because -- and the reason I'm saying this is because one of them went into the special education line. That's all.

Q Okay. Now the school also voted to spend $11,000 to upgrade its website, didn't it?

A Yes, they did. I'm not sure if it ever was paid, but they did approve it.

Q So in November of 2010 the board is not only

moving -- has got $72,000 for two teachers, it's moving -- it's giving Jason Allen a raise of 5,000, and it's got 11,000 that it's telling you you can use for website design, correct?

A Right. That came out of an IT line.

Q Why were you going to spend $11,000 to design a website?

A You should have seen the website before. It was awful. We really needed something more professional looking, something to attract the students and to attract --

Q Was that your decision to use --

A No, ma'am. It was we have an IT committee. Those were the recommendations of the IT committee.

Q But of course the board approved using 11,000 to fix the website?

A Yes, ma'am.

Q You also testified, do you recall in your deposition, that you had $1,300 left over in a teacher account about this time?

A I don't remember. I may have, I'd have to see it, I'm sorry.

Q Did you have any reason to doubt it?

A I don't have any reason to doubt it, but I honestly don't remember.

Q Do you recall testifying that the school had money in all kinds of accounts that it could use for different purposes?

A Yeah, we have different lines.

Q Based on what you have testified, I'd like to show you chart, which I'm sure your attorney is going to want to look at first.

This is just a chart of what you've already testified to. Right before you fired Ms. McNaughton the board minutes in November 15th, 2010 say that Charleston School for Math and Science is in a solid financial position at this time.

Proposals for website design were presented to the board. Jason Allen receives a $5,000 raise. And the board authorizes Tammy Kirshtein to add necessary support staff for a total budget change of 72,000.

And then on January 18th, 2011, I think I have the board minutes in that exhibit also?

A Yes, ma'am.

Q Don't the board minutes state that an additional special education teacher is needed, and that 11,000 technical support hours is available?

A I know we needed a second special ed teacher, the load -- the load was too much. And that's one of the things, you've got to meet the needs of the IEP's

for the students.

Q So there has been testimony today, and you testified, that Ms. McNaughton was fired because you needed her $17,000 for the second semester for a math teacher, correct?

MR. SMITH: Object to the form of the question, used the term firing.

THE COURT: You may answer it, overruled. Please answer.

A Ms. McNaughton was let go because we needed that funding for the math teacher. Special ed is a different line. That's not the same line.

Q (By Ms. Bloodgood) And about the same time she was let go or fired, whatever word you'd like to use, she didn't have a job anymore?

A Correct.

Q Couldn't pay her mortgage. You gave Jason Allen a raise of $5,000, you had 11,000 for web design, and you had 1,300 in your principle account. So you had $17,300 available when you fired Ms. McNaughton, didn't you?

A There was that much in the budget if that's what you are asking.

Q That's what I'm asking.

A It wasn't in a teacher line. But there is a

little -- you have to keep extra in the budget.
Q And you had extra in the budget, didn't you?
A You wouldn't be able to run a school or any business if you don't have something there.
Q When you fired Ms. McNaughton you knew she was in the PACE program, didn't you?
A When I let her good I knew she was.
Q And you knew that if she was terminated and could not work and had to stop being in the PACE program, that she'd have start all over again, didn't you?
A My understanding was that if she was rehired or hired within that school year she would be able to continue with her PACE program. That was my understanding.

So we tried to do what we could to include the letters of recommendation.
Q You didn't -- did you try to find her an art job in Charleston County?
A I put an all-call out to my staff. I believe there is an email that is in evidence where I asked Ms. McNaughton how she wanted me to let the staff know, I wanted to be sensitive to her feelings. And she told me to do it in my week in preview.

And in that week in preview I asked all my staff

members if they know of any openings, if there is anything that we could do. And I even offered Ms. McNaughton, as an independent consultant, to just work on the yearbook for us to try to help her out.

Q And you were going to pay her what?

A I asked her what her rate would be.

Q You never offered her that job, did you?

A She never followed through with me.

Q You were just going to pay her -- take away her health insurance, take away her retirement, take away her salary and pay her by the hour to work on the yearbook?

MR. SMITH: Objection, argumentative.

THE COURT: Overruled. You may answer.

A I just wanted to try to help her out.

Q (By Ms. Bloodgood) Did you think about that before you fired her?

A Before I let her go?

Q You hired another math teacher, I mean another art teacher, didn't you, the next year?

A The next fiscal year, yes, ma'am, I did.

Q And did you give any consideration to calling Ms. McNaughton and saying, you were a great teacher, wrote you a letter of recommendation, why don't you come back?

A Honestly no, she was suing us. We did advertise it publicly. Ms. McNaughton could have applied.
Q And if she hadn't sued you, you weren't going to voluntarily give her her job back, were you?
A I might have. Why wouldn't I?
Q I thought you didn't have a job for an art teacher in the winter of 2011.
A In the next year, the next fiscal year? The next fiscal year when we looked at our student numbers, did our budget projections we had enough money. Why would I not consider an application from somebody who had been a good employee that we had no issues with?
Q You knew at that point, didn't you, that her house was in jeopardy of being lost?
A No, I did not.
Q You know she was on COBRA?
A We offered for her to be on COBRA. That was --
Q You have to offer under federal law for her to be on COBRA, don't you?
MR. SMITH: Objection, asks for legal conclusions, argumentative.
THE COURT: If she knows she may answer.
A We offered her that. We did. I'm not a lawyer like you, so I don't.
Q You don't know if the federal law requires you

to offer COBRA when you fire an employee?
A No.
Q Let me show you some bylaws which we have marked as Plaintiff's Exhibit 15. Ask you if you can identify those bylaws.
A Are we done with this one? This is minutes.
MS. BLOODGOOD: Your Honor, I would move that Plaintiff's Exhibit 16 be entered into evidence.
THE COURT: Any objection?
MR. SMITH: No objection, Your Honor.
THE COURT: Plaintiff's 16 into evidence without objection.
(Whereupon, Plaintiff's Exhibit No. 16 is admitted into evidence.)
A What you just handed me looks -- it says bylaws on the bottom. It says approved August 16th, 2010.
Q (By Ms. Bloodgood) It says Charleston Math and Science on the top, right?
A Yes, ma'am.
Q Are these your bylaws?
A They were the bylaws at the time.
Q In August of 2010?
A Yes.
Q Okay. And to your knowledge have these bylaws -- were these bylaws changed between August and

December when Ms. McNaughton was terminated?

A I think there was one amendment to it in section 410 that had to do with the board members.

Q Okay, let me ask you a little more specific questions because I do know little things were changed.

Would you look at page three, which is the article four board of directors. It's the board of directors management and responsibility. Do you recall anything in that section being changed after August 2010?

A No, I do not recall.

Q All right. So we can -- the jury can assume that Plaintiff's Exhibit 15 are the bylaws, especially on page three which have the management and responsibilities of the school board, that were in effect at the time Ms. McNaughton was terminated, correct?

A Yes.

Q Would you look down at section 4.2 it says responsibilities. The board's responsibilities include, but are not limited to the following. And it lists a whole list of board responsibilities, doesn't it?

A Correct, A through U.

Q What does I say as one of the board's

responsibilities?

A I says employee and contract with teachers, administrators, and non-teaching employees.

Q Okay. And do you know whether or not -- and have you been authorized by the board to sign contracts for teachers?

A Yes, that's my job.

Q So what we have previously entered at a contract for Ms. McNaughton, which is Plaintiff's Exhibit 3, is that your signature on the bottom?

A No, it is not. I write much worse than that. There is a GT next to it. Ms. Tolbert signed for me and she is authorized to sign for me.

Q Okay. So your HR director signed your name, you gave her authority to sign your name, correct?

A Yes.

Q And the board gives you authority to sign employment contracts with teachers?

A Correct.

Q And since you are the authorized person who can sign an employment agreement with the teacher, we also had an Exhibit 2 that was shown earlier which is the employee handbook.

On the first page of Exhibit 2, which is the employee handbook, down on the bottom does it state

that employment at will is modified if a contract is signed by an authorized person?

A Yes, it does.

Q So you don't dispute that Ms. McNaughton was not an at-will employee, she had a contract, correct?

A I don't, no. The first question you asked me was if she had a contract, I said yes.

Q And she is not at will, correct?

A She is not at will.

Q Let's look at the charter. If you want to look at the full charter, which is Defendant's Exhibit 40, rather than just portions of it.

If you would turn to pages 107 and 108. You don't have to open it up.

A Okay.

Q Does that provide that the board hires, evaluates, retains and removes the school principal?

A Yes, it does.

Q Okay. And does the charter school report to the Charleston County School District?

A Report to? Could you specify what you mean by that?

Q Are you familiar with how charter schools are set up by state law?

A Yes. There are reports we send them as far as

attendance and things like that.

Q I'm not talking about attendance reports. I am talking about they are the authority who approves you and approves your charter, correct?

A Right. They approve the charter.

Q I'm sorry, that's what I meant by approves. Would you look at page 107 of the charter, I think you are looking at it again.

Is it the board's job to govern the school by making sure it meets the objectives of the charter?

A Yes.

Q And on page 40, if you would look at that, does the charter state that the school will teach art in the 6th, 7th and 8th grades?

A It says that art is an elective, yes.

Q And you represented to the Charleston County School District that you're going to teach art, correct?

A That we are going to offer art.

Q On page 64 and 65 of the charter, does it also state that you are going to teach Art 1 and Art 2 in high school?

A Yes.

Q On page 22 of the charter does it state that the board expects the principal to insure that the courses

mentioned in the charter are offered?
A 22?
Q 22.
A I don't know if we have got the same page 22.
Q Okay, let me ask you this without looking at the document. Is it your understanding as the principal of the school that the school board expects you to make sure that the requirements in the charter are fulfilled?
A Yes.
Q And you report to the school board, correct?
A Yes.
Q And they hire and fire you, correct?
A Yes, they do.
Q Do you also have to insure compliance with the policies of the school in the handbook as principal?
A Yes.
Q The board -- page 135, if you would look at that. Could you hand me back my little copy? Thank you, the handbook. Did you have the charter there too?
Let's look at page --
A I'm on 135.
Q Okay. Is that about the teacher evaluation? Are you looking at the teacher evaluation section?
A Yes.

Q And does that charter state that board policy is that if there are concerns about a teacher's performance, or if an employment decision needs to be made, a formal evaluation process will be used?
A Yes, it does.
Q Was there any formal evaluation process used when an employment decision was made to terminate Ms. McNaughton?
A No. She was under the regular induction, the TIPS evaluation.
Q Where does it say in there that you don't have to have board approval or a formal evaluation process if you are going to terminate an induction teacher?
A We didn't have any concerns about her performance. That wasn't an issue.
Q Doesn't the charter state that if there are concerns -- if an employment decision needs to be made, a formal evaluation process will be used?
A It does states that.
Q And was a formal evaluation process used before Ms. McNaughton was terminated?
A Just the TIPS evaluation. Just the ADEPT, you know, the regular ADEPT.
Q No ADEPT -- she has testified, and you heard her, that she was never evaluated under ADEPT. I

haven't seen any exhibits that prove, during this litigation, that there was ever an evaluation under ADEPT.

Are you testifying today that you did one? Or someone did one?

A I'm saying that we had a meeting with her with Melissa Parrish of the district, which is part of the -- it's part of the process with induction teachers.

And then she had been told what kind of TIPS events that she needed to sign up for.

Q No, I'm talking about a formal evaluation process, the ADEPT process. Was that ever used?

A You mean the safety process?

Q The ADEPT process, was it ever used with Ms. McNaughton?

A You don't understand. Depending on the level of the teacher, ADEPT is like this huge umbrella. So for an induction teacher it's very different than it is for a second year teacher. It's an extremely formal, long in depth process.

Q I'm only talking about induction because that's what Ms. McNaughton was.

A So she would have been in the TIPS process, which is what we were doing.

Q And where is the written documentation of that

process?
A I believe we have got some emails of the TIPS, the meeting with Ms. Melissa Parrish from the district.
Q The emails are the formal evaluation?
A No, no, no. I'm saying is that is evidence that we had Ms. Tolbert, who's our HR person, had that meeting with her to go over, you know, these are the kind of things you need to do, the TIPS events, that kind of thing.
Q And it's your testimony that by doing that that's a formal evaluation per your charter?
A No, no. That sets up -- you no need to set up your expectations before you do an evaluation. So that was the first step in, you know, in letting her know you still have to get your training.
Q So I think you are saying you did a first step, but you didn't do anything else.
A We did the first step. I observed her classroom on a few occasions.
Q You recall going in her classroom and observing her classroom on a few occasions?
A At least twice, maybe three times.
Q And that was for evaluation purposes?
A They were walk-through evaluations.
Q Where is the documentation of those

walk-throughs?

A I hadn't done them yet.

Q So no formal evaluation process was ever done?

MR. SMITH: Objection to the question. The witness has already testified she didn't do it.

THE COURT: Overruled, you may answer.

A They would have been written had she stayed.

Q (By Ms. Bloodgood) When were you going to write them up?

A The same time I wrote all the others up that were going through the same process.

Q The next semester?

A No, they were written by the end of December and turned into the district.

Q Any of that in evidence? Have you provided that to your attorney or to me? Anything here on the desk that talks about that?

A That talks about?

Q What you would have done?

A Every other teacher that was there that was going through TIPS completed, including PACE teachers, everything was turned into the district on time.

Okay, the same thing. There is no reason for anybody to suspect that I would not have done the same thing for Ms. McNaughton who we had no issues with at

all.
Q But you didn't, correct?
A Because she was let go before anything was due.
Q But your charter says a formal evaluation should have been used, correct?
A Yes, it says it on that page.
Q Did you ever go to the board and get permission to terminate Ms. McNaughton before December 1st?
A No, ma'am, I don't need the board --
Q And that's a board issue?
A No, that's not a board issue. The day-to-day operations of the school, it stipulates are the responsibility of the principal, including the hiring and firing decisions.
Q You just read from the charter that the board has the responsibility for the employment of teachers, correct, and the termination of teachers. Read I again if you would, please.
A I, it is on page 135?
Q It is on page 3 in the bylaws, look at I if you would.
A In the bylaws. I don't have the bylaws, I have the charter.
Q Page 3 I, what does it say that the board's responsibility is?

A Page 3 I says: Employee and contract with teachers, administrators and non-teaching employees.

Q Okay.

MS. BLOODGOOD: Your Honor, I would move that 16, which are the board minutes, be entered into evidence. I think I did 15, not 16.

THE COURT: They're admitted.

BY MS. BLOODGOOD: Thank you.

(Whereupon, Plaintiff's Exhibit No. 16 is admitted into evidence.)

Q (By Ms. Bloodgood) Why didn't you go to the board and tell them you were going to take a teacher's salary and give it to another teacher?

A Because those decisions were mine.

Q Where does it say in the charter or in the bylaws or in the handbook that you can take the salary of one teacher and move it to another teacher?

Could you show me where that's written anywhere in any of your governing documents, or in your handbook?

Where does it say that you have the authority to take a teacher who signed a year contract, and take her salary and give it to somebody else?

A It says that I'm responsible for carrying out the charter. Our children needed a math teacher.

There is evidence that they needed a math teacher. I had to make a decision in the best interest of our children, not necessarily in the best interest of one of my teachers.

Q What's in the best interest of your children? You've got 17,300, you don't have to -- why are you making this -- why are you telling me you have to make decisions about the children? It has nothing to do with the children or the students. You've got $300 {sic} more that you can use at the time you terminate Ms. McNaughton.

A Not in a teacher line I didn't.

Q I don't know what line it was in, but it was there, wasn't it, Ms. Kirshtein?

A I can only move things in the teacher line. I'm not authorized to go outside unless I go to the board.

Q Right. How hard would it have been to go to the board and say, let's hold off on this website design because our charter says we are teaching art.

And I have a teacher here, a PACE teacher, who spent two years of her life getting ready. And I have just given her a job and I don't want to cut her loose halfway through the year because she'll never get a job again.

How come you didn't go to the board and tell

them that?

MR. SMITH: Objection, argumentative.

THE COURT: Sustained.

MR. SMITH: Thank you.

MS. BLOODGOOD: I don't have any other questions.

MR. SMITH: May we approach just a moment?

THE COURT: You may.

(Whereupon, the following discussion was held at the bench.)

MR. SMITH: Just before -- if I cross-examine her briefly, I think I can reserve the right to call her in my case-in-chief; is that right?

THE COURT: Uh-hum.

(In open court.)

CROSS-EXAMINATION

BY MR. SMITH:

Q Dr. Kirshtein, do you have the charter in front of you?

A All 151 pages.

Q If you would, please, turn to the charter page 107.

A Yes, sir.

Q Do you see the section where it says, board of directors responsibilities?

A Yes, sir.
Q Please read the first paragraph to the jury.
A The board of directors is the governing board for the Charleston Charter School for Math and Science, and will govern in accordance to the charter school act of 1996.
Q Next sentence?
A The board's focus is student achievement, insure compliance and sound fiscal management.
Q Student achievement. Does that have anything to do with math?
A For a school of math and science.
Q Insure compliance and sound fiscal management. what does fiscal management mean?
A Has to do with using your money wisely.
Q Where it says the next sentence, the board colon. Can you read the third dot down on page 107?
A Develop a policy that will grant the principal the authority to employ and contract with teachers and non-teaching employees, and oversee day-to-day operations of the school.
Q When you were hired as principal, were you delegated the duties to hire teachers?
A Yes, I was.
Q Fire teachers?

A Yes, I was.
Q Oversee the day-to-day operations at the school?
A Yes.
Q Did you have to check with anyone, or were you required to check with anyone in order to hire or fire a teacher?
A No.
Q Let's talk about the 17,300 a moment. When you set the budget you put certain things in certain lines?
A Yes, we do. We have to.
Q Do you have a line for teachers?
A I have a line for teachers.
A Do you have a line for teachers for the year -- fiscal year 2010/2011?
A Yes, I do.
Q Is there a certain amount of money you can spend on teachers?
A Yes.
Q And do you have the authority to exceed that amount on your own?
A No, I do not.
Q Were any of these items in the teacher line?
A No.
Q Let's talk about website design. How do we get money into the charter school to pay our bills?

A Advertising.
Q And what's our main source of advertising?
A Well because we are a school of choice, we are not a typical neighborhood school, we accepted schools {sic} from all over the county. So sometimes we advertise in the paper, we have advertise by website, word of mouth, even Facebook.
Q Was the $11,000 part of the advertising to entice or to obtain students?
A It was to attract students and parents.
Q Jason Allen's raise approved in November, he got a $5,000 raise, correct?
A Yes.
Q And did he go from one line item to another line item?
A Yes. He moved from the teacher line item to the admin line item.
Q And was it a promotion?
A Yes, it was.
Q And before Jason Allen became vice principal, did we have another vice principal?
A No, we did not.
Q Did we need a vice principal?
A Oh, yes, we did.
Q We didn't give Jason Allen any money, he earned

it through a raise; is that correct?

A He earned it.

Q When you say he earned it like that, what do you mean?

A You can bring him up here, I'm sure he will tell you that he's earned it. He has come in and, you know, taken care of disciplined, done a whole lot. And when your school gets to a certain number of students, you really need more than one administrator and that's basically what had happened.

Q All this money, where it says there was no lack of funding, was all this money spoken for before -- in regards to the plaintiff, Ms. McNaughton. Was all this money spoken for?

A Yes, it was in other lines.

Q Was any of this available to pay teacher salary?

A No. I had to move it out of a line. I would have to go to the board and move it out of the line.

MR. SMITH: Your Honor, may it please the Court, I would like to reserve further examination of this witness until the Defendant's case in chief.

THE COURT: All right.

Ms. Bloodgood.

MS. BLOODGOOD: I have just very short redirect.

REDIRECT EXAMINATION

BY MS. BLOODGOOD:

Q You said that Jason Allen earned that $5,000, didn't you?

A He has.

Q Why is that? Because he was a good employee?

A He has earned it because of the amount of work he has done in that position.

Q Has it been good work?

A Yes.

Q Why did you suspend him last week?

Did you suspend him last week?

A Yes.

Q Was it for performance?

A No.

Q Why did you suspend him?

MR. SMITH: Objection, Your Honor, relevance.

THE COURT: Counsel approach.

(Whereupon, the following discussion was held at the bench.)

THE COURT: What is the relevance?

MS. BLOODGOOD: Well she has said he's a good employee, but she suspended last week. How can he be a good employee if she suspended him last week. It goes to her credibility.

MR. SMITH: He got a raise from teacher to vice

principal last November. What he did this week or last week or last month has no relevance to that $5,000.

MS. BLOODGOOD: I'm not going to ask her --

THE COURT: What is she going to say?

MR. SMITH: You know, there is a lot of politics at the school. And I believe --

THE COURT: I understand that.

MR. SMITH: I think she will testify that he was suspended because he knew that there was a petition circulating around to get rid of her and he didn't tell her about it. And that's way prejudicial.

THE COURT: Well just because it's way prejudicial does not mean it's not probative.

MR. SMITH: To what element in the cause of action?

MS. BLOODGOOD: Because she just testified he was a good employee.

MR. SMITH: He was, that's why he got promoted to vice principle.

THE COURT: I'm going to allow it.

(In open court.)

THE COURT: You may answer.

Q (By Ms. Bloodgood) Why did you suspend him last week?

A It was an act insubordination.

Q What did he do that was insubordinate?
A He basically did not give -- use the proper chain of authority, or give advice to teachers to use the proper chain of authority for concerns.
Q Was there a petition being circulated?
A A petition? Not that I know of.
Q What were the concerns, then, that he didn't use the proper authority?
A I don't know, they weren't brought before me.
Q You don't know why you suspended him?
A No, I don't know -- because the chain of command wasn't used, whatever I should have seen didn't make it to me.
Q What should you have seen?
A If I didn't see it I can't tell you what it is.
Q You don't know what was circulating that broke the chain of command?
A I knew that there were -- I don't know what -- because I didn't see anything, all I knew was that there is a report, that rumors and things like that were circulating, didn't make it to me.
You know, they kind of tried to circumvent me, and they didn't go through the proper chain of command. If somebody -- when somebody tries to circumvent, then you can't work through -- working around doesn't work,

you need to work through things together.
Q Did Mr. Allen try to circumvent you?
A I would say that he did not give the -- I believe the teachers came to him and instead of giving them the proper line of authority to follow, he didn't.
Q Why did they come to him?
A Because in a lot of ways I think some of the teachers because he came from teaching there to administration, they kind of see him as a bridge to administration perhaps.
Q Why specifically did they come to him? What were their concerns, Ms. Kirshtein? What were they complaining about?
MR. SMITH: Objection to relevance. It goes beyond --
THE COURT: Sustained. Move on.
Q (By Ms. Bloodgood) I'm not sure I understand why you suspended your assistant principal.
Could you -- what did he do to warrant suspension? That's my question.
A He knew that there was an issue. And he knew that the teachers were not using the correct procedure. And he did not advise them to use a correct procedure. He kind of stood by, you know, instead of.
Q What was the issue.

A That's a good question.
Q You don't know?
A I know there were rumors.
Q What were the rumors about?
MR. SMITH: Objection, Your Honor, relevance.
MS. BLOODGOOD: I'm just trying to find why she suspended him.
THE COURT: She has answered that. Sustained.
Q (By Ms. Bloodgood) And what would the proper procedure have been?
A The proper procedure if anyone has an issue, you bring it to your -- it's spelled out in the charter -- you bring it to your immediate supervisor, generally your department chair.
If you are a department chair or you're guidance, you bring it directly to me. If you are not happy with that answer, then you go up the ladder.
Q And who is Mr. Allen's direct supervisor?
A It's me. I'm his direct supervisor.
Q So he didn't bring something to you?
A No.
Q But you don't know what it is?
A I never saw these -- I don't think he even saw them.
Q I didn't ask you if you saw anything, I asked if

you knew what it was?

MR. SMITH: Objection, Your Honor, relevance. She testified that he was suspended --

THE COURT: If she knows she can answer.

Then, Ms. Bloodgood, you need to move on. Thank you.

You may answer.

A You may move on.

Q (By Ms. Bloodgood) Do you know? My question was, do you know what it was that did not get brought to you?

A I just know that there were letters. I don't know what -- anything -- there were rumors, crazy rumors all over the place.

Q Now I'm hearing about letters. What were the letter about?

A I have no idea.

Q Okay. So you suspended him, but you had no idea what the letters were about? That's all? Is that why?

A For not following the proper procedure, chain of command.

MS. BLOODGOOD: Okay, thank you.

THE COURT: Mr. Smith.

MR. SMITH: Nothing further.

THE COURT: You may step down. Thank you.

All right, ladies and gentlemen, we have reached an appropriate time for us to break for the evening.

Please remember all of my admonitions. Do not discuss this case amongst yourselves. Do not begin your deliberations. Do not do any independent investigation.

Please be back in your jury room at 9:15 in the morning. And we will begin promptly once all 13 of you are present. Have a wonderful evening.

Please rise for the jury.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, be seated.

How many more witnesses do you have?

MS. BLOODGOOD: I don't have any, Your Honor.

THE COURT: All right.

MS. BLOODGOOD: Well actually I'm still trying to serve one person. If we get her tonight I will do her in the morning. But I have not been able to serve her yet. She is the chairman of the board.

THE COURT: So as of this time you are resting; is that correct?

MS. BLOODGOOD: Yes.

THE COURT: All right, let's do it this way. I'm going to allow you to rest in front of the jury. But just since we have some time we can go ahead and do

or motions.

If you find your witness, I will then -- we will just have to deal with that when you find her. All right. But at this time the plaintiff has rested so I will hear from you regarding your motion.

MR. SMITH: May it please the Court.

THE COURT: Yes.

MR. SMITH: On behalf of the charter school we believe we are entitled to directed verdict on several issues.

The first issue let's talk about, let's talk about attorney fees. The plaintiff sued us claiming damages for attorney fees under South Carolina code 15-77-300 which requires the plaintiff to prove that it's a state action.

Here we are a charter school. We are not governed by the state, by the county, by the city. We answer absolutely to no one. We do have a charter, which is a contract between us and the school board. However, no one has say so over anything that we do. We are an independent body.

Therefore, because there is no evidence of state action, the plaintiff is not entitled to attorney fees under 15-77-300. Secondly, the plaintiff has failed to offer any evidence on the amount of attorney fees.

Because of such a total lack of evidence, we believe we are entitled to directed verdict.

Under 15-77-300, in order to recover attorney fees under this section, the plaintiff must show that we had no substantial justification for making the decision, in this particular case, to lay off one teacher a replace her with another. Notwithstanding the fact that our contract says we can.

Also our charter, on page 107, delegates from the board to the principal the decision for fiscal management. Therefore, because plaintiff can't possibly offer any evidence, and hasn't, of substantial justification that we lacked, we are entitled to a direct verdict on those same attorney fees.

THE COURT: All right. Ms. Bloodgood, I will hear you regarding that.

MS. BLOODGOOD: Thank you, Your Honor. Under South Carolina code section 59-40-40, defendant is a public school, and public schools are part of the state system of public education. It's therefore a state entity.

Specifically that statute says a charter school, quote, is considered a public school and part of the South Carolina public school charter district, or local school district, which is the case here, in which it is

located for purposes of state law.

Under state law, they are a state entity. And if a party, under 15-77-300 recovers against a state entity, it is entitled to -- we would be entitled to attorney fees.

That's premature. We don't know whether we recover or not. And if we do, it would be up to the Court to decide the amount of attorney's fees. It's not up to a jury. It's nothing that goes to a jury. So it's a matter that I would argue after trial, after a jury verdict, and only if it's in our favor, Your Honor.

THE COURT: All right. Mr. Smith.

MR. SMITH: Just briefly in rebuttal.

THE COURT: Move on.

MR. SMITH: Okay.

THE COURT: Thank you.

MR. SMITH: On the last cause of action is for gross negligent supervision. The plaintiff can't recover that on the first theory, it's called the economic loss theory. The case is Colloton versus Food Group, 379 S.C. 181.

And under Colloton the rule is, where a legal duty is created solely by contract, there can be no recovery in tort. Here because the only legal duty is

a contractual duty, and there is no duty to the plaintiff that she has offered evidence to show, under the economic loss rule, the school is entitled to directed verdict.

The second issue under gross negligent supervision is called the business judgment rule. It comes under a case called Lawman versus Long, code 380 S.C. 131. Here is the rule.

A court will not review the business judgment of a corporation when it acts within its authority, and acts without corrupt motives or in good faith.

Here because the plaintiff sued the school for gross negligent supervision, supervision was they failed to supervise the principal in making the contract decision, it's failed to offer any evidence to show that it didn't act in its authority.

As a matter of fact, the charter allows the principal to do exactly like she did. And they failed to offer any evidence whatsoever of corruption.

Therefore, under the business judgment rule, we believe the defendant is entitled to a direct verdict.

Number three, under gross negligent supervision. In order to recover for this particular tort, the plaintiff must offer evidence that a legal duty is owed her by the school other than the contract. Under the

case of Trast v Beaufort County, 392 S.C. 560, to recover for gross negligence, grossly negligent supervision, she must prove that the board owed her a legal duty in this case to somehow second-guess the principal for her employment position.

Because the charter specifically says the board doesn't have to do that, she can't recover under gross negligent supervision because there is no legal duty she has offered evidence on that it's breached.

Four, this is interesting for gross negligent supervision. As a general rule it requires a physical injury. The case of Degenhart versus Knights of Columbus, 309 S.C. 114, and Doe versus Greenville Hospital Systems, 323 S.C. 33.

The rule to recover for gross negligent supervision, which normally occurs in cases of sexual abuse, is that in order to recover there must be a physical injury of some sort.

Here, because the plaintiff denies physical injury on the stand, they cannot recover for grossly negligent supervision because there is no physical injury.

And maybe the most important ground, which is our fifth out of seven grounds for grossly negligent supervision. Kase versus Ebert, 392 S.C. 57, says

this: There is no cause action allowed if the alleged actor -- unless the alleged actor was acting outside of the course and scope of her employment.

Here because the principal did exactly what the charter allowed her to do, which is to make day-to-day decisions, and I believe the complaint also says acted within the course and scope of the employment, plaintiff can't recover because she offered no evidence to show the principal was acting outside the course and scope of her employment as the principal, and charged with hiring and firing teachers, and running the day-to-day operations of the school.

Under grossly negligent supervision, case Doe versus Greenville County, I just cited that a minute ago, but this is the second Doe versus Greenville County, 375 S.C 63, 2007 case. Gross negligence is defined as failure to exercise even the slightest care.

Number one, the board had no duty to supervise the principal and her decision to lay off the plaintiff. But number two, even if the Court disagrees, because the grievance process testified to by the plaintiff while the plaintiff was in effect, and it went to the personnel committee and the grievance folks, clearly she can't prove, and she's offered no evidence that even the slightest bit of care was not

used.

Seven, under gross negligent supervision, plaintiff is claiming damages. Under our worker comp act the general rule is for all work-related injuries, the workers comp act is the exclusive remedy available to an employee.

Here she admits she's an employee. She testified it's in the course and scope of employment. Therefore, as her seventh ground under this cause of action, there is no subject matter jurisdiction and we are entitled to a directed verdict.

That's all I have on the tort cause of action.

THE COURT: All right. Let me hear from you.

MS. BLOODGOOD: Thank you, Your Honor. I have to say I don't disagree -- I mean I disagree with a lot of the cases he's cited. I don't think they have anything to do with --

THE COURT: Just give it to me in a nutshell.

MS. BLOODGOOD: Okay.

THE COURT: Thank you.

MS. BLOODGOOD: Public entities can be liable under the tort claims act for gross negligence, though the exclusive remedy doctrine applies to an employer that they're immune from wrongful actions committed by an employee conducting the employers business. Under

an exception to the exclusivity provision of the workers comp act exists for injuries that are not accidental but are intentional, including gross negligence. And that's Dickert versus Metro Life Insurance, 428 S.C.2d 700.

The alter ego exception applies to dominate corporate officers, that's Dickert again. And she testified that she was the person who made the decision. She clearly is the dominant corporate officer. The jury could find that she was the dominant corporate officer, and therefore the exception under Dickert would apply.

For a gross negligence claim the plaintiff has to show that the principal was the alter ego, and I think there is evidence showing she clearly was the dominant corporate officer; that the termination was intentional, clearly it was intentional; that the principal knew and was indifferent to the consequences of her wrongful conduct, I think that was clear from her testimony; and that the principal harmed the plaintiff by terminating her.

In a similar case, Dunkin versus Hamilton County School District, which is 335 S.C. 535. The court of appeals found that the defendant school district was not immune under the South Carolina tort claims act for

selection of a teacher's aid to supervise a class trip to the special Olympics, because it exercised its discretion in a grossly negligent manner.

In this case the school board didn't answer any phone calls, had no oversight, didn't even know that the principal was doing what she was doing. And I think the jury could find from that that the school board was grossly negligent in their supervision of the principal as their alter ago. So under the holding in Dunkin, there is a gross negligent supervision claim that is viable here.

I think that what I also heard, and I guess I would just address this, is the issue of discretion. This is a tort. Gross negligent is a tort. So I'm not sure where the contract comes in.

But of course there is, if there is evidence of exercising discretion in the record, then there may be immunity under the tort claims act. Here there is no exercise of discretion by the school board, they don't know. The evidence is that they didn't know that this teacher was getting fired.

So in those cases the Courts find if there is no evidence that they have exercised discretion, they're not going to get that immunity under the tort claims act for exercising the discretion. So it would be up

for the jury to decide whether or not there was any exercise of discretion.

THE COURT: What about Mr. Smith's position that the plaintiff must suffer physical harm.

MS. BLOODGOOD: Your Honor, grossly negligent supervision, that case is not an employment case. All the time in employment law we have grossly negligent supervision where for instance if you give something -- if you fire somebody, that's not a physical harm. But if someone gets fired because they have a bad supervisor, and no one knows about that, that clearly is negligent supervision.

There can be all sorts of ways that people are supervised. This is a common employment law claim, and it very seldomly has anything to do with physical damage. It has to do with the employment status when somebody is fired.

THE COURT: All right. Your next motion for directed verdict.

MR. SMITH: Breach of contract cause of action. Our first argument is there is no breach at all, they haven't proved anything. The plaintiff says there is only one contract, it's a party admission.

The one contract is the employment agreement which is dated August 5th, 2010. In order to prove

that we breached something, at least for the employment agreement itself, she has to prove that we didn't apply the contract.

As a matter of fact, there is a contingency in the contract. The evidence shows that, number one, the contingency is based upon funding. Number two, she admitted that she doesn't make the decision for the funds. And, number three, she admits that it's the principal who makes the decisions on funding.

Therefore, as a matter of law, there can be no breach based upon the clear and unambiguous language of the contract itself.

Secondly, he plaintiff admits that it was the school and not her who decided whether the funding exists. Therefore, because it's a discretionary act under the tort claims act, there is no liability. That's under 15-78-60, parenthetical 5.

Bear with me one second. Because the tort claim act applies to charter schools, under 59-40-50, parenthetical 4, and because funding teacher salaries and and setting budgets are discretionary acts, we are entitled to directed verdict on the three breach of contract claims on those issues.

Our third argument on breach of contract. Under the case of Showers versus Harland, an employment

contract, just as those cases I mentioned a moment ago are employment cases, Showers versus Harland, the plaintiff in that case had a written contract for a term, just like this case.

And so for our directed verdict, we believe we are entitled to a directed verdict order which states that the plaintiff, if she is entitled to damages, it's limited to one year because where a contract for a term exist in the employment context, you are limited in damages to the term of that contract.

Regarding accompanied by a fraudulent act, Harper versus Ethridge 290 S.C. 112, 1986 South Carolina Supreme Court case. The rule is to establish breach of contract accompanied by fraudulent act, the plaintiffs must prove dishonesty in fact, unfair dealing or unlawful appropriation of her property.

Here there is absolutely no evidence of fraud. We brought her in on December 1st we told her, hey, we need a math teacher. We are switching your funding to another math teacher.

In other words, if she has got a claim, which we don't believe she does, but it would be for breach of contract, not for breach of contract accompanied by a fraudulent act.

Next the plaintiff claims that the charter, that

she's the TPB, the third party beneficiary, of the charter. Number one, she admits on the stand her only contract is the written contract.

Under 59-40-60, parenthetical 1, the charter school's application, once submitted to the school district and accepted, is a quote, unquote, contract. No one else is listed as the beneficiary.

Number two, the plaintiff pointed to no clear and definite promise to her, or a clear and definite promise in the charter to anyone, that was breached. There is no evidence we breached anything in the charter.

TPB under Goode versus St. Stephen's, 329 S.C. 433, the plaintiff must prove that the school's charter application was for the purpose of creating a direct benefit to her. She offered absolutely no evidence of that. As a matter of fact, it's metaphysically impossible for that to occur because the charter was in 2006/2007, and the plaintiff was not hired until 2010.

Next on the issue of damages.

THE COURT: Hold on one second. Let me hear from you on the --

MS. BLOODGOOD: Thank you. I think I have a little bit of catching up.

Your Honor, as to the breach of contract claim.

It is for the jury to decide whether there was a lack of funding, what that contingency clause means, or whether funds were moved.

And that's an ambiguity in the contract and it's for the jury to decide whether or not there was really a lack of funding. That's what they're saying, that there was inadequate funding. Well it was only inadequate funding after the money was moved away from my client into another person. That's the gist of the lawsuit.

THE COURT: Counsel, where is the evidence of fraud? What's your position?

MS. BLOODGOOD: The fraud is that, A, there was no lack of funding, they moved the funding. There was no lack of funding, the principal moved it. But for her moving it, there was no lack of funding that would trigger that contingency clause in the contract.

Two, there was no layoff, as they said it was a layoff. There is no layoff policy. No one else was laid off, and she was never called back. And that they were reckless when the principal didn't go to the board and ask for approval for the firing.

So the fraud is in the deceit surrounding the reason for the lay off, and then how they characterize it after the fact and say it's a layoff when it was not

a layoff. So that's the deceit and the fraud.

THE COURT: All right. And tell me the elements that you believe have been shown that go to your third party breach of contract claim.

MS. BLOODGOOD: The third party breach of contract under Goode versus St. Stephen's United Methodist Church, which is 329 S.C. 433. To determine when a party is a third party beneficiary, the court looks to the terms of the contract to determine the intentions of the parties.

The intentions of the party, of course, will be a factual issue. The following -- I think that what creates an expectation on the part of the teachers at this charter school that they are third party beneficiaries is the fist page of the mission statement that says that they will create professional opportunities for teachers; the anticipated teaching positions, that they will offer art; and it was reasonable for Ms. McNaughton, when she was looking for schools, to say I can work here because they offer it not only in middle school, but in the high school.

And in their termination process, that they're not going to dismiss someone and stop their employment until they go to the board first, or until they do some evaluations. There is nothing that provides

middle-of-the-year, and she could point to nothing, that the principal can just take somebody's money and give it to somebody else.

So those are all in the charter. The school district knows they're there. And this type of action, I don't think it's anything that is anticipated. Teachers are entitled to rely on the charter for some sort of protection when they go to teach at a school. Because it is the contract, by state law, between the the Charleston County School District and the charter school.

So they can say, well this is a valid charter school, look at the charter. Here's what they're going to do. This is what we can rely on. And it's not a promissory estoppel claim, but this is what's going to happen. They're going to teach art, I'm an art teacher.

They're going to provide teaching opportunities. They're going to not terminate me unless they do it in a fair way, and unless the board knows what is going on. So those are the reasons that I think she is a third party beneficiary.

THE COURT: Let me hear from you as to damages.

MR. SMITH: May it please the Court. On the issue of damages, we don't dispute the fact that the

plaintiff, if she is successful on the contract action, and she's proved damages for the remainder of the one contract, she can recover.

However on the issue of future damages, they have offered absolutely no expert testimony, produced absolutely no future losses to that net present-day value. They have failed to offer any evidence, any documentary evidence under the best evidence rule, to support any of their claims for future damages.

Therefore, because of a total lack of evidence and because of a lack of expert testimony, which is required, we believe that they're not entitled to any damages at all past the one-year term of the August 2010 contract.

MS. BLOODGOOD: Your Honor, for a breach of contract you are entitled to consequential damages. You are entitled to damages that would put you in the place you would have been but for the breach of contract.

In this case there has been testimony that the last two years she earned half of what she would have been earning as a teacher. And she is not going into this profession, that she would have done it for ten years, clearly -- and that what her salary was when she was a teacher, and what it is now.

The jury has plenty of evidence from which they can conclude that she -- her career has been hurt, it has been injured. And going forward she is not in the same position she would have been. But for this termination, she would be a certified teacher.

There is nothing to indicate otherwise. She taught for seven years in Florida. She had great expectation. And the jury has heard that it is impossible for an induction teacher, especially one who's 56 years old, to find a job for the second half of the year, or even to find job at all.

She will probably never be a teacher. And there has been plenty of testimony to that effect. That is a real damage. She cannot be in the position she used to be because of this, their action.

THE COURT: Anything further?

MR. SMITH: May it please the Court, on the issue of future damages --

THE COURT: I don't want to hear anything.

Anything new?

MR. SMITH: No, ma'am.

THE COURT: All right. See you all at 9:00 a.m. I will issue my ruling and after we determine whether or not you do have another witness.

We are at ease. Thank you.

MR. SMITH: Thank you, Your Honor.

MS. BLOODGOOD: Thank you, Your Honor.

THE COURT REPORTER: My records indicate the plaintiff admitted 16 twice and not 15.

THE COURT: Any objection to the bylaws?

MR. SMITH: No objection.

THE COURT: Plaintiff's 15 is admitted without objection.

(Whereupon, Plaintiff's Exhibit 15 is admitted into evidence.)

THE COURT: So I show 1 through 16 are admitted.

MS. BLOODGOOD: Correct. Thank you.

(Whereupon, the proceedings in this matter before the Court were adjourned for the evening.)

* * * * *

THE COURT: We're back on the record.

Ms. Bloodgood, do you have any further witnesses?

MS. BLOODGOOD: No, Your Honor, I rest.

THE COURT: Do you need to put anything on the record concerning your attempts to serve the witness?

MS. BLOODGOOD: No. I finally did, she was served last night. But I went ahead and had asked her questions of the other witness so I went ahead and released her.

THE COURT: All right, thank you.

So do you have any -- will you have witnesses?

MR. SMITH: Yes, ma'am, we have three witnesses.

THE COURT: Okay. Just trying procedurally.

Let me hear from you, now that the plaintiff has officially rested, if there is anything further concerning the motions for directed verdict.

MR. SMITH: Yesterday we argued motions for directed verdict. Just as a short supplement, based upon the evidence and under the cause of action for grossly negligent supervision, there is absolutely no evidence that anyone touched the plaintiff, much less harmed her physically or physically injured her.

Under that particular cause of action, one element is harm, is the injury. There has been no

testimony of emotional injury, there was no testimony of physical injury. Therefore, because there is no evidence of damages regarding the cause of action for gross negligent supervision, that's an additional ground to support our motion for directed verdict, and we would incorporate our argument last night into our motion today.

THE COURT: And, Ms. Bloodgood, I will allow you the same courtesy as to hit the highlights now that you have formally rested your case.

MS. BLOODGOOD: Yes, Your Honor. I would just repeat my previous arguments. I would point out that harm is not necessarily bodily harm, it's loss of job in this case is the harm that she suffered.

This is the one thing yesterday that I didn't say, I thought about it last night. We are not asking, just so this is clear, we are not asking for front pay. Front pay is an equitable remedy that is in lieu of reinstatement. We haven't asked for reinstatement, so we are not asking for front pay because we are not asking for reinstatement.

What we are asking for is the loss of earning capacity. That is a separate, totally separate than front pay. We believe we have produced competent evidence that shows that the termination of my client

narrowed the range of jobs that she will be able to get. It hurt her professionally. It hurt her ability to be a teacher in the future. And that's the type of damages that we've argued to the jury.

I don't think they're speculative because we have established for the record, what she made if she would have worked for 12 more years, what she could only earn now, and what she has been earning.

I will be very conservative when I present that to the jury, but I think there is evidence in the record to show she is in six figures in terms of her loss of wage earning capacity until she retires based on what's happened to her.

So I just wanted to differentiated. And I have -- I didn't include the loss earning capacity because I really was considering more the consequential damages that flow naturally, logically and necessarily are responsible for a breach of contract.

But I do, Your Honor, have a 7th circuit case that addresses this pretty succinctly, and talks about the injury to character, the injury to her professional standing which are not lost future but they are earning capacity. And that's what we are looking for.

And I would be glad to hand up that case.

THE COURT: You may. Do you have a copy for Mr.

Smith?

MS. BLOODGOOD: I don't have a copy for him. I can show him the paragraph that I think is pertinent if you'd like me to.

MR. SMITH: Your Honor, there is no claim in the complaint for those damages, number one. Number two, it's already in the court record her interrogatory responses

THE COURT: I'm going to accept the case. Thank you, Mr. Smith.

MS. BLOODGOOD: May I approach?

THE COURT: You may. Did you need the cite?

MR. SMITH: No. I'd like to respond to her additional information.

THE COURT: Ms. Bloodgood, what evidence has been presented that the defendant failed to exercise slight care? That the defendant failed to exercise slight care?

MS. BLOODGOOD: Because the evidence in the handbook and the charter puts the board of the school in charge of an employee who's dismissed midyear. And it has rules about why they can be dismissed.

The principal testified the board never knew that she terminated Ms. McNaughton until after the fact. And the board did not respond to any phone

calls. She tried to contact them. All they did was rubberstamp what the principal had done.

So I think that that is enough for the jury to say the board, A, didn't know what the principal was doing. And, B, when they found out, they didn't do anything about it.

So it is their responsibility under the charter to know what their principal is doing

THE COURT: All right. Very briefly, Mr. Smith.

MR. SMITH: On the new issue, the plaintiff indicates she is not asking for front pay, but rather she is asking for loss of earning capacity. It's not in the complain, it's not relative to anything before the Court, number one.

Number two, there is no evidence she has a loss of earning capacity. As a matter of fact, she testified under oath in deposition she is already making $27,000 a year now.

With regard to slight care, the charter says --

THE COURT: Didn't she correct that? That she -- wasn't her testimony that she was confused when she made that statement?

MR. SMITH: Yes. Then I furthered impeached her, and she said I answered all the questions she understood, and she answered that question. And she

read the question for the record. Therefore, it's her testimony.

Secondly, there is no claim in this case for injury to character. There is no claim in this case for injury to personal standing. Therefore, we think those are mute, they're not before the case.

Number three, the interrogatory responses are already in the court file. There is no claim for damages, no damage has ever been made for lost future earning capacity or front pay.

Finally on the issue of slight care. It's the plaintiff's burden in their case in chief to offer evidence of what the board did if anything. They offered absolutely no evidence of what the board may have done regarding the ending of employment of the plaintiff.

Therefore, because of a lack of evidence, they can't prove their case for even slight care.

THE COURT: When ruling on a motion for directed verdict, I must view the evidence in the light most favorable to the nonmoving party, who in this case is the plaintiff.

In reviewing the motions for directed verdict which Mr. Smith has made, I must determine whether a verdict for the party opposing the motion would have

been reasonably possible under the facts.

I must admit all issues to the jury when there is material evidence tending to establish the issue in the mind of a reasonable juror. I am not required to submit submission of speculative, theoretical or hypothetical views to the jury.

Mr. Smith made a motion for a directed verdict as to attorneys fees, indicating that there was no evidence of attorneys fees. I agreed with Ms. Bloodgood that that is an issue that will be addressed after, post-trial, after the jury has reached their verdict. So I deny your motion for directed verdict as to attorneys fees at this time.

As to the more specific issues of damages. I believe that there has been testimony that is presented which with a reasonable jury could establish the issue that damages have been -- that Ms. McNaughton has suffered damages as a result of the actions of the defendant. Deny your motion for directed verdict as to the issues of damages at this time.

Please remember that I understand, Mr. Smith, you have three additional witnesses, and I know that you are going to renew all of these motions at the close of your case as well.

As to the gross negligent supervision. The

issue that the Court has struggled with is was there a failure to exercise slight care on the part of the defendant.

The intentional conscious failure to do something which is incumbent upon one to do. Or the doing of something intentionally that one ought not to do.

I do not find that there has been any material evidence tending to establish that issue. I grant your motion for directed verdict on the cause of action of grossly negligent supervision.

I have reviewed the cases that you have submitted as to the third party breach of contract. I do not find that there is material evidence tending to establish the issue as to the fact that the charter was a contract, and that Ms. McNaughton was in privity and will not be -- I will be granting your motion for directed verdict on that cause of action as to the third party breach of contract.

I'll note your exception for the record, Ms. Bloodgood.

As to the breach of contract accompanied by a fraudulent act, I do not find that there is any material evidence of a fraudulent act relating to the breach of contract. I grant your motion for directed

verdict.

As to the cause of action for breach of contract. I do find that there is material evidence tending to establish the issue, and will be submitting at this time that issue to the jury. Note your exceptions on the record to my rulings for both parties.

Anything further, Mr. Smith?

MR. SMITH: Nothing from the defendant

THE COURT: Ms. Bloodgood?

MS. BLOODGOOD: No, Your Honor.

THE COURT: So that, according to my notes, leaves the remaining cause of action for breach of contract.

Is that correct, Mr. Smith?

MR. SMITH: Yes, Your Honor.

THE COURT: Is that correct, Ms. Bloodgood?

MS. BLOODGOOD: Yes, Your Honor.

THE COURT: Anything further before we bring in the jury?

MR. SMITH: Nothing from the defendant.

MS. BLOODGOOD: No, Your Honor.

THE COURT: Do we need a comfort break before we begin?

MR. SMITH: We'd like five minutes.

THE COURT: All right, we will take five minutes. And based upon my ruling to get your witnesses together.

There is someone that is new. Is that a witness?

MR. SMITH: This Ms. Caryn Vedane. She was called as a witness last night and subpoenaed, she showed up and now the plaintiff doesn't need her. So she is going to sit and watch the court if that's okay.

THE COURT: All right. And you do not plan to call her? Because the rule has been invoked and I just wanted to make sure.

MR. SMITH: I do not plan to call her.

THE COURT: All right. I did not mean to call you out, I'm just trying to make sure the rules of procedure are followed.

Ms. Bloodgood, do you anticipate calling her perhaps in a rebuttal? I just want to make sure that if she remains in the courtroom that both parties are going to waive any --

MS. BLOODGOOD: Yeah, I think I would like her sequestered just in case.

THE COURT: All right. You have been subpoenaed, now you are present. So I need you to remain outside of the courtroom. The rule of

sequestration has been invoked. And simply what that means is that a potential witness may not sit in the courtroom and listen to testimony before he or she testifies.

So once you are called to testify, you will be able to remain in the courtroom. But I ask that you remain with us. If you choose to leave, you will be in violation of the Court's order for you to remain.

Thank you.

All right, five minutes.

(Whereupon, a recess was taken.)

(Whereupon, the jurors enter the courtroom.)

THE COURT: Thank you, please be seated. Ladies and gentlemen, I apologize for the delay. There were some matters that I had to take up outside of your presence.

Ms. Bloodgood.

MS. BLOODGOOD: Thank you, Your Honor. I have no other witness. We'll rest our case.

THE COURT: All right.

Ladies and gentlemen, at this time the plaintiff has rested her case. And we will now hear from the defendant.

Mr. Smith, please call your first witness.

MR. SMITH: May it please the Court. The

defendant calls Dr. Tammy Kirshtein to the stand.

DR. TAMARA BETH KIRSHTEIN,

after having first been sworn to tell the truth, the whole truth and nothing but the truth testified on her oath as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Dr. Kirshtein, where do you currently live?

A In Mount Pleasant.

Q And have you lived in Mount Pleasant very long?

A Pretty much I would say ten years, except for a brief time I was away. But I have had the house for over ten years.

Q And do you have any children?

A I have one.

Q And who is your child?

A Katie. Do you want her full name?

Q What is her age?

A She is 24.

Q Where does she live?

A She lives at the house with me.

Q Do you belong to any clubs or professional organization?

A I believe to an administrative organization, South Carolina Association of Administrators. And I

belong to National Staff Development Council. And I was just elected to the board of the Village Reparatory Company Playhouse, which is a fine arts company.

Q Do you attend church?

A I don't attend, I'm Jewish so I don't attend church it's temple.

Q If would you, please, describe for the jury your educational background.

A Starting from?

Q Sure, start with college.

A Okay. I went to College of Charleston for my bachelor's degree. And I finished that in three years. Then --

Q In what area did you graduate?

A I graduated in -- I majored in psychology and minored in math. And then I got married to a Citadel graduate. Moved off.

Then when I came back to Charleston I pursued my master's of art in teaching with the Citadel, it was the night program there. And then in the summers I got a graduate assistantship to help me pay for it, and majored, because I -- I majored in biology with an emphasis in teaching. So I have a masters in biology and teaching.

Then recently I completed the program for an EDD

in educational leadership from Seton Hall University in New Jersey, which is a program for administrators. Basically you spend two summers in the dorms and you fly up every other month, and you spend the weekends. It's all seat time, it's not online.

Q For what purpose?

A Well one of it had to do with the contract, my contract with this job has to do with me having that degree in certification.

Q What degree and what certification?

A Administrative certification, which I have, and educational leadership.

Q So you have a bachelors?

A I have a bachelors, a masters and a doctorate.

Q And what's the doctorate in?

A Educational leadership.

Q And can you explain to the jury what a program in educational leadership entails? What do you learn? What are you taught?

A Wow, it's a lot. You start with framing, looking at things from different frames.

Q Are we talking about running a school?

A You learn about that. You learn about budgets. You learn about legal. We have a legal course, which definitely does not qualify you for what you do. But

you learn about some of those things. You learn a lot of management.

Q Let's talk about budget.

A Okay.

Q About how many courses have you had in budget?

A Two there that I had in budget.

Q How about before then?

A Before then just regular college courses. They weren't necessarily aimed at administrative budgeting.

Q Okay. And the budgeting courses that you took for your Ph.D., do you utilize those in your job with Charleston Charter School?

A Yes, I do.

Q And what did you learn from those courses that you apply to your job at the Charleston Charter School?

A A lot of is considered best practices.

Q What is best practices? Explain that to the jury.

A Okay. For instance when you are projecting a budget with charter schools it's a little different than a typical public school because public schools get, you know, principals don't have as much control over the budget.

For instance, I have to hire out lawn service, I have to hire out somebody to come and spray for

roaches. It's every little thing. It's very different.

But one of my other things -- I'm sorry, to get back to your question -- one of the things that they teach you is you never have a zero line item budget because you'll get in trouble that way. Another --

Q Stop right there. Explain to the jury what a zero line item is.

A You don't spend all the money you get. You project. You always have to have a little bit of cushion in your budget. You can't run a business if you're running it with a zero line budget.

Q When did you begin work with the Charleston Charter School?

A May 1st, 2010.

Q And when you were hired, as a result of reading the corporate documents, are you familiar with the problems that the charter school had before you got there with budget issues?

A I became very familiar very quickly, yes.

Q Okay. Explain to the jury how you became familiar.

A When I first got there one of the first things that I was told to do was to fix the budget, to work on fixing the budget. Prior to me, the principal was a

traditional principal. One of the principals was a traditional principal.

Q What do you mean traditional?

A A traditional public school principal.

Q Versus a charter school?

A Versus charter school. There are just several difference.

Q And we'll talk about those in a minute. Go ahead and explain the previous budget issues.

A The previous budget issues were that they basically did a zero line item budget. And what happens occasionally those unforeseen circumstances, the cuts came down from the district, from the state to the district, it gets passed on, and they had no room for the cuts.

Q What do you mean they had no room for the cuts?

A There was no room in the budget for the cuts.

Q Meaning no money?

A No money, yes, correct.

Q And that's the year before you got there?

A That was actually the year I -- the year I got there would have been the 2009/2010, it was during that year. It was the tail -- it was in December of 2009. I arrived May of 2010.

Q Okay.

A So that happened during that school year.
Q Okay. You say there were budget cuts in the 2009/2010 year?
A Yes.
Q And how did that affect the charter school?
A Well they had to layoff three employees; a guidance counselor and two IT people. And all teachers, not just teachers, but all staff had to take a 5% pay cut.
Q Okay. As a result of what?
A As a result of that cut that came in. Those unexpected things that happen.
Q And when you were hired, were you hired to fix issues like that?
A Yes, I was.
Q How did you go about fixing issues like that from the start?
A Well one of the first things I did was I sat down for about a good three or four days with the accountant, and also with our -- the board member that was in charge of, our treasurer.

And we hammered out what do we need, what do we have, what do we need to finish the year. And instead of one of the best practices is instead of basing it off of last year, you don't just put the same amount of

money every year into a line item.

Q Why not?

A Well for one thing the school was growing. We were at that point still adding grades on. The school started as a 6th through 9th grade. That was the first year I wasn't there.

The next year, the year I came in at the tail end of, it was 6th through 10th grade. So you add another 6th grade, 9th grade goes up to 10th grade.

The following year that I was budgeting for after that was 6th to 11th grade. So you are adding numbers. So you have got to take that into account.

Q Okay. And when you talk about budgeting, a moment ago you mentioned that it's not like a traditional principal?

A Correct.

Q Are you talking about a traditional principal in a regular public school?

A A regular public school, yes.

Q And the difference between the principal who budgets there and a principal under the charter school who budgets, what's the difference?

A Principals still have line items, and they still have things they're responsible for. But a district takes care a lot of the other work.

Q For who?
A For the principal. For the whole school.
Q For our school?
A No, not our school.
Q For a traditional public school?
A Yes. So they don't have to worry about electric bills. They don't have to worry about contracting outside services for anything. They don't have to worry about the maintenance for the copier.

These kind of things, it's part of the contract that the district has already done for them.
Q Do we have any of that for the charter school?
A No.
Q And for a traditional public school, if they go over budget and need money, does the school district back them up? Is there someplace to go to get extra money in situations to pay for termite repair? To pay for lawn care?
A I would say yes because the district schools are still working, and some of them are in the red.
Q Versus a charter school. If we go below -- if we spend all of our money, there is no money left.
A No money equals no school. It's that simple.
Q Let me show you page 107 of the charter.

MR. SMITH: May I approach witness?

THE COURT: You may. You have continuing permission to do so.

MR. SMITH: Thank you.

Q (By Mr. Smith) And it's Defendant's Exhibit 40, it just makes it quicker this way.

Can you please read where it says board of directors' responsibilities. Can you please read the first paragraph to the jury.

A Okay. The board of directors' responsibilities. The board of directors is the governing board for the Charleston Charter School for Math and Science, and will govern in accordance with the charter school act of 1996.

The board's focus is student achievement, insure compliance and sound fiscal management.

Q Okay. Can you read the board, and then the third dot, please.

A The board, and the third dot says: Develop a policy that will grand the principal the authority to employ and contract with teachers and non-teaching employees, and oversee the day-to-day operations of the school.

Q My question for you is by the time you reached the school, it had already been in business for a year or two, correct?

A Correct.
Q By the time you started working for the school, had the board already delegated, or sent to the principal of the charter school, these duties to contract with teachers and non-teaching employees, and oversee day-to-day operations of the school?
A The principal before me, yes.
Q Yes. Did you have the same duties?
A Yes, I did.
Q Let's go back to the budget. Did you prepare a budget for the 2010/2011 school year?
A Yes, I did.
Q And how did you go about preparing it?
A 2010/2011 with the accountant and with the treasurer from the board member treasurer. And we hammered out line by line. It took a long time.
Q We will talk more about the budget, about the actual numbers a little bit later.
A Right.
Q Regarding your education, when did you receive your Ph.D.?
A I received it -- I defended my dissertation this past February. So officially I received it in February. I walked across the stage in May.
Q Congratulations.

A Thank you.
Q Just for way of background, who is your current employer?
A Charleston Charter School for Math and Science.
Q And your current position?
A Principal.
Q Is this the first job at which you have been a principal?
A Yes, it is.
Q Is this your first job in Charleston County?
A No, it is not.
Q Have you had any teaching jobs in Charleston County?
A Yes. I started out as a teachers, gosh, maybe 15 years ago. St. Andrews High School doesn't exist anymore. It merged with Middleton to become West Ashley High School.

I was a science teacher, biology, physical science and I kind of got stuck with health my first year. But, yes, I was a science teacher there. When we merged two schools into one it became West Ashley High School.

I became the science department chair at West Ashley High School, and where I continued there until I moved into an administrative position with the

district.

Q Did you win any awards in Charleston County for job performance as a teacher?

A Yes. My first year of teaching I won the Sallie Mae first year teacher award for the county.

Q Can you tell the jury what the Sallie Mae award is?

A It's an award that they give to one county teacher for outstanding performance for the first year, you know, your potential and that kind of thing. And I received that my first year.

Then in the year 2000 I won teacher of the year for the entire county, I guess it was about 3,000 teachers in the pool for that. So I represented the county for a year doing that.

Q You have a stack of exhibits in front you have, they have green stickers for defense exhibits?

A Okay.

Q If you would, please, turn to Defendant's Exhibit 11. On the top of it has agenda. What we will do is we will flip them over and we will go in order as much as possible.

A Okay. I'm there.

Q And do you recognize Defendant's Exhibit 11 entitled Agenda, June 21st, 2006?

A Yes, I recognize it.
Q Is it a document that the school maintains in the normal course of business?
A Yes. It's an accurate document that the school maintains in our offices.
MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 11 into evidence.
THE COURT: Any objection?
MS. BLOODGOOD: No, Your Honor.
THE COURT: Defendant's 11 into evidence without objection.
(Whereupon, Defendant's Exhibit No. 11 is admitted into evidence.)
Q (By Mr. Smith) If you would go to number 4 where it says charter basics. Let's start with A, it says no tuition. What does that mean?
A We're a public school. Our students are public school students. We don't charge students.
Q Do we have to report to the state?
A The only reports we have to give are basic scores. We do not report to them as they're our boss, no.
Q Is the state our boss?
A No.
Q Is the county our boss?

A No.
Q Is the city our boss?
A No.
Q Is the school district of Charleston County our boss?
A No.
Q Who's our boss?
A We are our own entity.
Q Okay. Under charter basics it's got B. It says, governance by parents and teachers, mission, vision, goals and strategy.

Can you explain to the jury what it means by governance by parents and teachers?

A Well basically governance by parents and teachers means the board, the board of directors are composed of parents, we also have two teacher members on the board, as well as committee members on the board.

So they set the policy. Their job is to set policy. My job is to carry out the policies that they set. And we have a very active board, very active teachers.

Our teachers are asked to do a lot. They're asked to be on a lot of committees. We ask them for a lot of input. I expect my teachers to give me

information that I wouldn't otherwise have because they're the specialist in their area.

Q And regarding the board, how much are they paid?

A How much is the board paid?

Q Yes, how much are the board members paid?

A Nothing.

Q Is it all volunteer?

A It's all volunteer.

Q If you would turn to Exhibit No. 12.

A Okay.

Q At the top it says Charleston Charter School for Math and Science, agenda 10/26/06. Do you recognize that document?

A Yes. It's a document that -- accurate business document that we keep on file at our school.

MR. SMITH: We'd offer Defense Exhibit 12 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 12 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 12 is admitted into evidence.)

Q (By Mr. Smith) If you would read paragraph 3E.

A Do you want me to read what it says under 3 first, and then 3E?
Q You can do that.
A Okay. 3 says: A vision for the Charleston Charter School for Math and Science. And E says: Governance by a board of directors elected by the parents of its students.
Q In fact is there a board elected by the parents of our students?
A Yes. Our board is elected by the parents of our students.
Q One student, one vote?
A One student, one vote. So if a parent has two students there, they get two votes.
Q And under H, can you read that?
A A charter application submitted by May 1st, 2007, to open doors Fall of 2008.
Q And in fact did the school open its doors in the Fall of 2008?
A Yes, they did. We did.
Q If you would turn to Exhibit 40, which is the charter.
A Okay.
Q Is that an accurate copy of the school's charter?

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A Yes, this is.
Q Are you familiar with the courses listed in here?
A Yes, I am.
Q Are you familiar that art is one of the courses that the charter school offers?
A Yes.
Q Is there anything in this document whatsoever requiring the charter school to teach art every semester?
A No. We are just required to offer art during the year.
Q Did we offer art during the year when Ms. McNaughton was teaching?
A Yes, we did.
Q If you would turn to page 110.
A Okay, I'm there.
Q If you would, please, read the first two sentences to the jury.
A The CCSMS board of directors will delegate to the principal authority for management and execution of the day-to-day school activities, including management of the personnel and instructional leadership.

The principal serves as the liaison between the board and the school.

Q Is that in fact actually how it works?
A Yes, it is.
Q Who, if anyone, at the charter school makes the hiring decisions?
A I do.
Q Anybody else?
A No.
Q Who at the charter school makes the firing decisions?
A I do.
Q Anybody else?
A No.
Q Is there a grievance proceeding?
A Yes, there is.
Q We will talk about that more in just a minute. The grievance procedure, does the board review decisions you've made?
A Yes, the board does.
Q And in this particular case who made the decision to hire Ms. McNaughton?
A I did.
Q Can you tell the jury how that came about?
A Well we had an art teacher that was an art, slash, PE teacher actually the year before. He came into my office in August, which is kind of late.

Q August of which year?
A 2010.
Q Okay.
A And told me that he was moving to Charlotte, I believe that's where he said he was moving, and that he would no longer be working for us. So about a week before school started I was pressed to find an art teacher.
Q So what did you do?
A So I remembered receiving an email with a resume in it from an art teacher. So I went into my files and pulled that up and looked at it.

At the time I had just filed it away because at that time we didn't need an art teacher. But I did keep the resumes on file because you never know.

Q And what happened next?
A We contacted Ms. McNaughton for an interview.
Q Did you interview her?
A Yes, we did.
Q Along with anybody else?
A I believe Ms. Tolbert was there.
Q And who made the decision to hire her?
A I did.
Q And why did you decide to hire Ms. McNaughton?
A I felt she would be a good fit with the school.

I was -- she had a lesson there, I think it was van Gogh's Starry Night, I could be wrong, where she had integrated with an 8th grade science astronomy lesson part, which is something that we like to do. We like to try to integrate across the curriculum.

Q And did she begin work?

A Yes, she did.

Q And were you pleased with her job performance?

A Yes.

Q Any job performance issues at all with Ms. McNaughton?

A No.

Q Are you familiar with the ADEPT program?

A Yes.

Q You say that kind of left-handedly. Would you explain that to the jury, please.

A Well anybody that's dealt with it, it's kind of one of those programs that evolves and changes over the years. And it's all-encompassing and it can be confusing.

It's kind of an umbrella for all the evaluations. And depending on where you are in your teaching career, or what you need to do, you get a different part of ADEPT.

Q Was Ms. McNaughton a late hire?

A She was a late hire, yes.
Q And what does late hire mean?
A Late hire, I generally like to hire by the end of June. Because if there is any training that the teachers require or that will help them in their job performance, it's usually given in June or July.
So in August would be a late hire to me. You know, you hire somebody a week before school starts, that's late.
Q Did Ms. McNaughton participate in any of the ADEPT subprograms?
A She wasn't able to -- because she was a late hire, so I guess I would say, there was a program in July. Because she wasn't hired until August, she was not able to attend the PACE training that was in July.
She was in ADEPT. She was trained, you know, we had the meetings. Ms. Tolbert had Melissa Parrish from the district come in and have the mating.
Q While Ms. McNaughton was employed by the charter school, did she -- did you and Ms. Tolbert, the HR person, did you provide to Ms. McNaughton everything required under TIPS or ADEPT or any kind of other programs under ADEPT?
A Yes, we provided what we needed to provide. We gave her the orientation. I stopped in her classroom,

you know, for just quick observations.

Ms. Tolbert at the time I believe had hip surgery or there was foot surgery, so she would have had to make up her observations. We also provided time off for teachers to -- we had several teachers going through the program.

Q In the 2010/2011 school year?

A Yes, we did. We had some that were also PACE, and then we had some that were just already certified teachers teaching for their first year induction. And they were required to go to a certain amount of these TIPS in-services.

Q And for the 2010/2011 school year, for all those other teachers who were enrolled in those programs, did they complete the program that year at the charter school?

A Yes, they did.

Q If you would look at Defense Exhibit 16.

A Okay.

Q At the top it says, TIPS make-up orientation reminder. Do you see that?

A Yes, I do.

Q Were you CC'd on this email?

A Yes, I was.

Q And was it an accurate copy of the email?

A Yes, it is.

MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 16 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 16 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 16 is admitted into evidence.)

Q (By Mr. Smith) Can you please read to the jury what the email says.

A This is an email from Ms. Tolbert, who is our HR administrator, to Ms. McNaughton.

It says: Hi Cynthia, TIPS make-up orientation for first year teachers will be held this afternoon at 75 Calhoun Street in the board room from 4:30 to 6:30. Thanks.

Q And is that part of the ADEPT program?

A Yes, it is.

Q If you would turn to Defense Exhibit 17.

A Okay.

Q Is Exhibit 17 an accurate copy of an email that you were CC'd in on November 9, 2010?

A Yes, it is.

MR. SMITH: Your Honor, we move to admit

Defendant's Exhibit 17 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 17 into evidence without objection.

(Whereupon, Defense Exhibit No. 17 is admitted into evidence.)

Q (By Mr. Smith) What's the date again on this email?

A November 9, 2010.

Q When did you first notify Ms. McNaughton that she would no longer be employed by the school?

A December 1st.

Q So this is about three weeks prior; is that correct?

A Yes.

Q And can you -- you see the list of items where it says, modified seven times at the bottom?

A Yes.

Q Can you explain to the jury what those modified items are?

A In Charleston County we have something called ERO, electronic registry -- just an ERO which is an electronic registry to sign up for professional development. And everybody has an account.

And you sign up and you can add/drop courses. And this one has one, two, three, four, five, six, seven courses under Ms. McNaughton's name. And it has --

Q Of the seven, how many does it indicate that she attended?

A One.

Q And how many does it indicate she is registered for?

A Three.

Q And from the other three courses for Ms. McNaughton on November 9, 2010, what does it indicate for those other three courses?

A She dropped the courses.

Q And is that training she needed to become a certified teacher?

A Yes, it was part of the training. And this was an email that is recommending that she re-register for the effective behavior support sessions.

Q Do we see any documents where she re-registered for that?

A No, this is -- not here I don't at all. And you have to physically go in to drop a course. You can't -- if you don't show up to a course, it will say no show. So an ERO, so you have to actually go in and

drop your income course in this electronic version.
Q Regarding the other teachers who were employed in the 2010/2011 school year, did the school treat them any differently whatsoever than it treated Ms. McNaughton?
A No. I let them off early. I let anyone off if they needed time off because we kind of have a late dismissal. So if they ever needed to leave early to go to a class, I would find somebody to cover their class just so that they could make their TIPS sessions.
Q Let's talk about the end of Ms. McNaughton's employment. At some point did her job come to an end at the charter school?
A Yes, it did.
Q Take a second if you want to get some water.
A Okay, I got it.
Q If it had not come to an end, then would she have completed the ADEPT or TIPS if she completed all the classes she was scheduled for?
A She completed all the classes, just like the other employees did.
Q If you would describe to the jury how Ms. McNaughton's job came to an end at the charter school?
A In October, we had given a benchmark test to our algebra students. Our algebra students are --

Q What is a benchmark test?
A A benchmark test is to see how they're doing in comparison to where they should be.
Q Okay.
A And it will also break it out and compare them to other students in the district.
Q Okay.
A So our math department had given a benchmark test to our algebra classes. And our math department chair, Ms. Pedings, came to me because she was very concerned about the scores.
Q Okay. And as a result of her coming to you, did you put together a game plan to raise the math scores?
A Yes, we had a few meetings. You know, because it was -- I had to digest it, I had to kind of think through it, but I was alarmed.
Q So she came to you in October, you had to think about it, you had a few meetings. From the end of October to the end of November, how did your thinking progress?
A My thinking progressed and I suggested to Ms. Pedings, I said, it seems that a lot of our students -- because our students come from all over the county, we don't have an entrance exam or anything like that for our students.

There is no cherry-picking of students. Like a magnet school you can have an entrance exam of certain requirements to get, we don't. If you're in the county you are in if your name is pulled.

Q And then you enter through the country. Do you guys have any policies or guidelines at the school about hiring percentage of minorities, or anything like that?

A Hiring minorities?

Q No, for students. Enrolling a certain --

A We need -- yes. We are probably the most diverse school in Charleston County.

Q Meaning what?

A Meaning we are almost 50/50.

Q In terms of?

A In terms of race. And it works, it's wonderful. It's a great place. But beside that --

Q So from the end of October?

A So from the end of October -- so we basically our kids, some of our kids come in and they are two or three grades below grade level.

And since we started 6th grade, you know, by the time they get to 8th grade where they are taking algebra, being a math and science school, our 8th graders take Algebra 1 for a high school credit.

When we gave this benchmark test, you know, it was determined that some of these kids didn't have the basic skills that they needed to be able to work on the concepts in Algebra, which is a foundation course in high school, which is going to make them successful for the rest of their high school career.

Q Foundation, you are mean required?

A Foundation, and the foundation of the math courses, the future math courses that they're going to be taking.

Q Is art a required course at school?

A Art is an elective at the school.

Q And math is required?

A Math is required. And that's one of the four core.

Q Do you know why the school is called the Charleston Charter School for Math and Science?

A Because the parents and community members that formed the charter decided that's where the need was.

Q In math and science?

A In math and science.

Q Okay. Continue with November of 2010.

A So after realizing that some of the kids -- the students needed help in those basic consents before they could move on, the idea that I came up with was

the children needed to be double-dipped. Which basically means they needed to have two math courses.

Q Instead of?

A Instead of just Algebra. They needed to have Algebra, I mean that was a given. But they also needed some remedial program that would bring them up to still.

Q And who were the math teachers at the time?

A At the time in both high school and middle school?

Q Yes.

A At that time we had two high school math teachers. Do you want their names?

Q Sure.

A Mrs. Pedings and Mrs. Lesica. And we had our middle school math teachers we had, let's see, it was Mr. Singletary was teaching pre-Algebra and Algebra. And then we had another teacher teaching 6th grade, it was Muhan and then she got married, so.

Q Okay. In November of 2010 did you form a game plan to help fix the math scores?

A Yes, we did.

Q And who did you coordinate with when you did that?

A Ms. Pedings. I basically, like I said, I have a

certain trust level, but then a certain just respect for my department chair's knowledge in their subject field, and give them the opportunities to step up.

And she is one of those people that, you know, she is very passionate about it. And she thought double-dipping, or giving them double the amount of attention in math would help bring the scores up.

So she thought it was a good idea. And so we agreed that that was a good idea. That was basically her involvement in kind of in the decision-making process at the time.

Q And then what happened next?

A Well in the middle of the year trying to find a math teacher is not an easy fete. So I asked Ms. Pedings if she's, you know, did she know of anybody through her network, because they go to department chair meetings with the district, and was there anybody aware of anybody that was looking for a job or maybe finishing up student teaching at the time that we could bring in.

Q And did you find somebody?

A Yes, we did.

Q If you would turn to Defense Exhibit 18.

A Okay.

Q Would you please describe to the jury what

Defendant's Exhibit 18 is?

A It's our November 10th budget report. We reconcile our budget monthly at our board meetings.

Q What is the last page?

A The last page?

Q Yeah, the last page.

A The last page is the last page of the budget report.

Q Okay.

MR. SMITH: One Moment, Your Honor.

THE COURT: Take your time.

Q (By Mr. Smith) Let me switch copies. I'm handing you my Defense Exhibit 18.

A Okay.

Q You should have six pages; is that correct?

A That's correct.

Q When the school budgets money, does it do it annually or monthly or weekly? How does it do that?

A Our projected budget is for the year, but we have to reconcile everything monthly.

Q And is Defense Exhibit 18, is it an accurate copy of the November 2010 budget report with line-item salaries attached to the back as the last page?

A Yes. Let me make sure I have got the right -- yes, it is.

MR. SMITH: Your Honor, we'd offer this as Defendant's Exhibit 18.

THE COURT: Any objection?

MS. BLOODGOOD: No objection, Your Honor.

THE COURT: Defendant's 18 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 18 is admitted into evidence.)

Q (By Mr. Smith) Is there a line item for teachers' salary?

A Yes, there is.

Q Can you tell the jury which line item that is?

A It's line item 23.

Q Can you mark that in green, just the 23 part?

A Just the number 23?

Q Just number 23.

A Okay. All right.

Q And did you, when making the decisions about getting a new math teacher, or an additional math teacher, did you take a look at the budget?

A Yes.

Q And can you explain to the jury, please, what the teachers' salaries line item 23 means?

A That's the budget for the teachers' salaries, all the teachers combined. It does not include

administrators. It does not include special ed teachers. It does not include the front office. It does not include the athletic director, nor the student concerns specialist. It's just teachers.

Q What was the budget for November 2010? What was the amount?

A $915,578.99.

Q And if you look at the last page where it has each teacher's salary?

A Each teacher's salary, yes.

Q Do the teachers' salaries, just the teachers, not the others, do they add up to equal that number?

A If you take item 1 through item 24, which were the teachers at the time, and you add up all of those numbers, you will come up exactly with the number I read off.

Q In November of 2010, was there any extra money in the budget to hire an added math teacher?

A No.

Q So what did you decide to do?

A I had to look at what we had on hand, you know, teachers I had on hand to see where possibly I could make a cut because math -- I had to get our kids up in math.

Q Okay. And where did you decide to make a cut?

A I decided to make the cut with Ms. McNaughton, which is the art position. And the reason being is that we had already offered art the first half of the year. We were still offering musical art, theater and we were able offer Art 1 in high school the second semester.

So our students still had art available to them.

Q So even after Ms. McNaughton left, did the school continue to teach some art classes?

A Yes.

Q And the art classes that Ms. McNaughton taught, were those art classes required to be taught every semester?

A No, they were not.

Q Eventually did you find someone to hire as the added math teacher?

A We found someone and she started December 13th.

Q And how did you notify Ms. McNaughton that her job would no longer be there?

A In -- on December 1st I had a conference with her in my office. And that's when I notified her. And then I followed up with a letter December 2nd.

Q Okay. If you would look at Defense Exhibit 19.

A Okay.

Q Top of it says, conference with Cynthia

McNaughton. Is that an accurate copy of the conversations you had with Ms. McNaughton that day?

A Yes, it is.

Q Is this a document that the school produced in the normal course of its business?

A Yes.

MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 19 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 19 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 19 is admitted into evidence.)

Q (By Mr. Smith) Does this show what happened during the meeting?

A Yes, it does.

Q Was it a nice-tone meeting? What was the tone of the meeting?

A I would say it was a professional, nice tone.

Q Had you had any issues about coming to the decision to lay off anybody?

A Oh, I struggled with it.

Q Tell the jury what you did.

A When -- I mean, I don't want to lay anyone off.

I mean you don't want to do that.

And but when I -- and it comes down to the bottom item line and I have to make a decision, I have to -- and I promised when I was hired by the school that the question I will always ask myself is what is in the best interest of the students at the school. And so that's how I made my decision.

Q If you would, please, read the paragraph beginning with I don't like.

A This is myself talking. I don't like to do this, but this is the only way to get our math students up to where they need to be academically. This has nothing to do with you personally, but it is a decision that is made strictly for the children.

Q Is that what was discussed that day during the meeting?

A Yes.

Q Had you reviewed Ms. McNaughton's employment contract before the meeting?

A Yes.

Q Was it the same contract that you had with the other teachers?

A Exactly the same.

Q And was there a provision in there that allowed you to discontinue the contract if there was a funding

issue?
A Yes.
Q If you would, I'm going to hand to you Plaintiff's Exhibit 2. Plaintiff's Exhibit 3. Ask you if that's an accurate copy of the contract?
A Yes, this is the accurate copy of the contract.
Q Can you read the contingency beginning with this employment agreement?
A This employment agreement is contingent on funding and enrollment, as well as the said teaching meeting certification and other requirements to teach designated course.
Q Does this contract, does it say anywhere that the school will spend its last penny to keep her employed?
A No, sir. It just says contingent on funding and enrollment.
Q And funding, is that a term of art for a budget issue?
A Funding is a term for line items.
Q And in our line item for teachers' salary, November of 2010, do we have the funding to hire an additional math teacher and keep Ms. McNaughton?
A No, there was no play in that line. There was no cushion.

Q Yesterday we saw a chart that the plaintiff's attorney put up that indicated $5,000 for a vice principal, $11,000 for IT. Earlier did you indicate we had lost a couple of IT people the year before?

A The year before there were three layoffs. There were two IT people that were laid off, and a guidance counselor.

Q Was the money on that chart, was it already spoken for?

A The money on that -- they were in line items.

Q Okay. Was that money available by you to keep Ms. McNaughton?

A No, not without -- no, it wasn't. I'd look at the line item, the teachers' salaries adds up to that amount.

Q If you would turn to Defendant's Exhibit 20.

A Okay.

Q Do you recognize the emails dated December 13 between you and Ms. McNaughton?

A Yes, it's a string of emails between myself and Ms. McNaughton.

Q Is this an accurate copy of those?

A Yes, it is.

MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 20 into evidence.

MS. BLOODGOOD: No Objection.

THE COURT: Defendant's 20 interest evidence without objection.

(Whereupon, Defendant's Exhibit 20 is admitted into evidence.)

Q (By Mr. Smith) Let's start at the bottom. Tammy Kirshtein email to Cynthia McNaughton.

What did you write to her?

A On Monday December 13th I wrote, I'm going to miss you.

Q And what was her response?

A I'm going to miss everybody. Some of the kids have made me cry.

Q If you would turn to Defense Exhibit 21. You were copied on it, do you recognize that?

A Yes. I was carbon copied on this.

Q Is it an accurate copy of an email between you and Ms. Tolbert and Ms. McNaughton?

A Yes, it is.

MR. SMITH: Your Honor, we'd offer Exhibit 21 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 21 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 21 is admitted into evidence.)

Q (By Mr. Smith) Can you read Ms. McNaughton's email to Gail?

A Hi, Gail. Would you mind asking Ms. Kirshtein if she would type a letter of recommendation for me.

Q In fact did you do that?

A Yes, I did.

Q And those are already in evidence, aren't they?

A Yes, they are.

Q And did you offer, if you would look at Exhibit No. 22.

A Okay.

Q And do you recognize that email dated December 21st, 2010?

A Yes.

Q Is this an accurate copy between you and Ms. McNaughton?

A Yes. It's an email that she sent me from her personal Yahoo account.

MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 22 into evidence.

MS. BLOODGOOD: No objection.

THE COURT: Defendant's 22 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 22 is admitted into evidence.)

Q (By Mr. Smith) What did you write to Ms. McNaughton?

A I said, if I were to pay you a per-class price just to do yearbook, what would you charge?

And her answer was I usually charge $20 to $25 an hour for freelance work, so I guess $30 per class would be about right.

Q Did she ever follow up with that?

A No.

Q Did you ever follow up with that?

A No.

Q You are still getting along pretty good December 21st, 2010; is that correct?

A Yes.

Q If you would turn to Defendant's Exhibit 23.

A Okay.

Q At the top is says Riptied Board of Directors meeting December 20th, 2010; is that correct?

A Yes, it does.

Q Is that an accurate copy of the board meeting from December 20, 2010?

A Yes, it is.

MR. SMITH: Your Honor, we'd offer Defendant's

Exhibit 23 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 23 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 23 is admitted into evidence.)

Q (By Mr. Smith) On the first page at the bottom, the last dot. Can you please read that to the jury?

A Our per-pupil amount has been reduced to $5,998. CCSMS budgeted $5,668. So the reduction does not affect our bottom line.

Q Okay. Tell the jury what that means.

A That means the overall budget of all the line items together, I had budgeted conservatively for the budget and I had put a seven percent in there, so even though once again in December a cut came from the state to the district and then down to us, our bottom line overall was not affected.

Q Did you have to layoff anybody as a result of this?

A No, I didn't.

Q And whose decision was it to put a little bit in reserve?

A It was my decision, along with the accountant.

Q And what did you decide to do?
A To put seven percent aside. To put seven percent in the -- within the budget.
Q Here it says, budget has been reduced to 5,998 per pupil. Do we get money, or receive money based upon our enrollment?
A Yes, we do.
Q And is that our main source of income?
A Yes, it is.
Q So if that's reduced, does it have an effect on the school?
A Yes, it does.
Q Were you expecting more cuts in beginning January of 2011?
A You never know. It's the unknown and you have to be prepared for that.
Q Thank you. If you would turn to Defendant's Exhibit 28. Do you recognize that document?
A Yes, I do.
Q At the top it's got first mail committee meeting February 3rd, 2011. Is that an accurate copy of that business record?
A Yes.
MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 28 into evidence.

THE COURT: Any objection?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Defendant's 28 into evidence without objection.

(Whereupon, Defendant's Exhibit No. 28 is admitted into evidence.)

Q (By Mr. Smith) Is this the decision on Ms. McNaughton's grievance?

A Yes.

Q And as a general statement to the jury, what did the personnel committee decide to do regarding your decision to end her employment?

A Do you want me to read the --

Q Did it upheld your decision?

A Yes, it did.

Q And did it look at all the documents to your knowledge?

A It states that it looked at six documents, yes.

Q Before I forget about it, that math teacher that was hired, when did she begin work?

A December 13th.

Q And was there another test issued or given to the student after that, a benchmark county-wide test?

A Well they had the EOC test was given, which is what the benchmark was leading up to.

Q Hiring that new teacher, did it have any effect on the scores?
A Yes, it did.
Q And can you tell the jury what the effect was?
A I think Ms. Pedings would be able to speak to it a little bit more, but the scores went up. We had a -- the scores were abysmal that I originally had been given to where our children -- I don't think any of them, except maybe a very few, would have passed the end-of-course test had we not done some kind of an intervention at that point.

And with the double-dipping, we were able to bring them up to respectable score.

Q Are you familiar with the handbook?

Are you familiar with the school's handbook?
A Yes. In general, yes.
Q Anything in there that prohibited you from discontinuing Ms. McNaughton's employment contract?
A No.
Q Does the school have a written layoff procedure?
A No, we do not.
Q Anything that requires you to have a written layoff procedure?
A Not that I know of, no.
Q I believe yesterday the plaintiff testified she

sued the school in February of 2011. Did you hear her say that?

A I heard her say that, yes, I did.

Q Was the school ever interested in hiring back someone who sues?

A No.

Q Are there plenty of other applicants for jobs?

A There are a fair amount.

Q Were all the teachers who taught in the 2010/2011 school year rehired for the next school year?

A No. The contracts are year-to-year. You know, you don't -- even a continuing teacher still gets one, you know, year-to-year.

Q Do you know about how many teachers were not rehired?

A I believe four were not rehired, maybe five. I can look at the list and tell you exactly.

Q Out of how much?

A 24. Wait a minute. It would be 26 if I included the special ed teachers.

Q How many teachers did the charter school employ this year? Regular teachers?

A Without special ed, maybe 32.

Q And about how many were not hired back?

A Four.

Q Which grades does the school now teach?
A We teach through 12 grade. We had our first 12th grade class this year.
Q First graduating class?
A First graduation class. Yes, sir.
Q How many students graduated?
A 43, 44.
Q 43, 44. Out of those, how many were accepted to college?
A 100 percent. Which is unheard of.
Q Was math a required course for those students?
A Yes.
Q As a result of the poor scores in 2011/2011, did you fire any of those math teachers who were present when the students scored poorly?
A I didn't fire anybody.
Q Did all those teachers remain employed that school year?
A Through the rest of that 2010/2011 school year, yeah.
Q Please answer any questions that the plaintiff's counsel has for you.
A Okay.
THE COURT: Your witness.
MS. BLOODGOOD: Thank you.

CROSS-EXAMINATION

BY MS. BLOODGOOD:

Q Ms. Kirshtein, you've done a lot of testifying about what is required and not required and electives. But high school students in South Carolina have to take electives to get a high school diploma, don't they?

A Yes. There are a certain number of electives they must take.

Q And art is one of those electives, correct?

A Art is one of those electives.

Q And you had an art teacher before Ms. McNaughton, right?

A Correct.

Q And you had an art teacher after Ms. McNaughton, correct?

A Correct.

Q And you had no art teacher in the spring of 2011, correct?

A We do not have a certified art teacher.

Q You had no one teaching Ms. McNaughton's same courses that she taught in the fall. No one was teaching them in the spring, were they?

A In high school we had a teacher that was teaching graphic arts to our students. So, yes, we were abiding by what --

Q That wasn't my question. You were not teaching the same art courses in the spring of 2011 that you had represented you were going to teach at the beginning of the year, were you?

A We are teaching art. Art 1 contains a lot --

Q Is it your testimony --

MR. SMITH: Objection, Your Honor. Let the witness answer.

THE COURT: Mr. Smith, thank you. You may continue.

Q (By Ms. Bloodgood) Is it your testimony that you were teaching Art 1, the same course that Ms. McNaughton was teaching, in the spring of 2011?

A Ms. McNaughton may teach it a little differently, if that's what you are getting at I'm not sure.

Q No, that's not what I'm getting at.

A Okay.

Q You have courses, you know, you have history, you have geography, you have Art 1?

A Right.

Q Were you teaching Art 1 in the spring of 2011 when Ms. McNaughton left?

A We taught graphic arts, so.

Q That's not Art 1, is it?

A It could be part of Art 1, but graphic arts generally is a separate course. If that's what you are getting at.

Q Thank you. That's exactly what I'm getting at.

Now you also testified that all of the other PACE teachers at your school completed that school year, correct?

A Yes, they did.

Q So it's safe to assume someone who you gave a letter of recommendation to, Ms. McNaughton, also would have completed all her PACE courses that year, correct?

A To assume that she would have completed it?

Q The PACE courses, the same as all the other PACE teachers at your school completed their courses?

A They completed that year's requirements, yes.

Q My question to you was, is it fair to assume that Ms. McNaughton, who was a good teacher, no performance problems, gave her a letter of recommendation, would have completed her PACE program?

A Yes, had she remained.

Q Thank you. Now you said the scores went up. And then you also said that the math students are --- weren't where they were supposed to be. Are they now where they are supposed to be?

A This would be --

Q This is 2011/2012.
A So, yes, I would say they are were they supposed to be. You realize they would be 10th graders now.
Q Let's talk about the school in general. The school in general, the last report card that you got from the state would be for what year?
A The last one we got was for last year. This one hasn't come out yet.
Q Last year is 2011?
A 2010/2011. The latest one I haven't seen yet.
Q Have you seen the South Carolina state annual district report card for 2011?
A Yes.
Q So you are familiar that the state grades schools throughout the state based on excellent, good, average or not meeting?
A Right, they do.
Q Correct?
A Right.
Q And how was your charter school rated by the state last year?
A We were rated as average.
Q Just average?
A Yes.
Q Could have been excellent, could have been good

and you were just average?

A Correct.

Q You testified you have to be prepared for the unknown when you are preparing a budget. Would you agree with me that you also have to be prepared as principal to meet your contractual obligations to your teachers?

A Yes, of course.

Q And you introduced an exhibit, Defendant's 10, which is the budget report for November of 2010, right before you fired Ms. McNaughton, tells you how much money the school has.

Now this is almost halfway through the year, November -- this is Defendant's Exhibit 10 that I am looking at.

A I have a 10A. Is that -- I don't have that.

Q I think your attorney probably handed you -- maybe it's one of the ones you've got turned over. It should be up there somewhere.

A That's 32. Do you have one I can look at? 10?

I have got an 18.

MR. SMITH: I have 10 but it's highlighted, it's my copy. I can bring it up.

MS. BLOODGOOD: Is that -- she has it as 18. I'm sorry, Your Honor. She has it marked as

Defendant's 18, but you gave me 10 here. It's marked for me as 10.

Q (By Ms. Bloodgood) Okay, let's call it 18.

A Okay.

Q So if you would look at Defendant's 18 for me.

A Correct.

Q The one that you've got that's marked as 18. This is about halfway through the school year in November?

You only have one more month until halfway through the school year, correct?

A Right. You are into the second nine weeks at this point.

Q You are almost into -- school ends the middle of December?

A I believe break that year started the 17th.

Q Okay. If you look at this budget. Total amount of money that you get from Charleston County school District each year is what?

A You mean the revenue line at the bottom?

Q Yes.

A The total revenue line projected was $2,674,749.84.

Q $2,674,000 you get a year from Charleston County School District. How much did you have left in

November of 2010?
A How much did we have left?
Q Look under the column that says remaining.
A In November we had 189,000 --
Q Look on the first page if you would.
This is your November 2010 budget report, right?
A This is the revenue page, the first page.
Q Yes. How much revenue did you have remaining in November of 2010?
A I'm sorry, $1,526,408.82.
Q So in November you still had $1,526,000 in your accounts, didn't you?
A Yes, we did.
Q And looking on some of these line items you had IDEA regular stimulus money, 100 percent left. You hadn't spent any of that money, correct?
A Right.
Q You had federal stabilization money, 100,000. You hadn't spent any of that money, had you?
A Correct.
Q You had Title 2 money, you hadn't spent a money of that, had you?
A That was $600 left?
Q You hadn't spent it, right?
How about your increased high school diploma

requirements. You hadn't spent a penny of that yet, had you?

A I don't think you realize, maybe, but budgets are not --

Q I'm just trying to figure out how much money you had.

A The money hadn't all -- it's doesn't all come in in one check. So the projected total revenue, a little over two-and-a-half million dollars, it hadn't all come in at that point. So a lot of it -- and they hold -- the district holds it.

And in fact, this year we had to request several times that we didn't even get some of our money until March. So even though it's on the budget as coming in, it's still going to be remaining on the budget if we haven't gotten any checks for it yet.

Q Because you haven't spent it yet?

A We haven't gotten the money for it yet.

Q But it's coming in, right? It's in your budget. It's coming in, right?

A But if it's not in the bank.

Q There is an item here for $5,000 for teacher salary increase fringe, and you hadn't spent any of that yet. What is that fringe? $5,000 for fringe?

A Which line are you looking at?

Q Number 15.
A Number 15.
Q Well that ended up getting taken away when the cut came.
Q Okay. How about 25,000 for teacher salary supplement, you didn't spend a penny there. Did that money get taken away?
A Which one are you on?
Q 14.
A Okay, thank you. I don't think that had come in yet either.
Q Did you ever pay your teachers $25,000 as a salary supplement?
A No. I don't believe that came in. I'd have to look at the final reconciliation.
Q On your textbooks, this is halfway through the year, you still have 96 percent on item 33 that you hadn't spent. You only spent 4 percent on textbooks the first semester. You had $1,900 left in there.
A So now you're in the expenditure lines?
Q I am on 33.
A Okay. Right, that's correct. Most of our textbooks, anything that is state adopted, we can use the state adoption.
The money for these textbooks were textbooks

that teachers would ask for if they wanted a novel set if they were an English teacher or something like that.

Q And you still had 90 percent, more than 90 percent of the funds available in that line item, didn't you, in November?

A Yes. Yes, we did.

Q If you go to 53, you have $2,000 in anti-bulling supplies. You hadn't spent a penny of that, right?

A No. In fact I think I had just gotten those approved a few board meetings before we had decided to invest into an anti-bulling program. We had to buy.

Q So what did you do, move some money around so that you could put it in that line item?

A We had to create the line item.

Q Where did you get the money from?

A From within the budget from part of the --

Q To create a line item and move money from somewhere else into it?

A Right. You've got to do what you have to do to make things work.

Q Right. And you had an anti-bulling training program for $6,000 in there?

A Right.

Q Where did you find that money from?

A Same thing, other areas of the budget.

I didn't take it out of the teacher line.
Q You had exceptional program services?
A Right.
Q $3,000 in there?
A Correct.
Q Find money for that?
A Did I find money for that?
Q You hadn't spent any of it?
A At that point, no, we hadn't. We did spend the money. That was for outside people to come in, maybe occupation therapist, speech therapist, and we get billed for that. But those hadn't come in yet.
Q You have a legal services line, don't you?
A Yes, we do.
Q How much money do you have in there?
A At that point we were -- we hadn't spent any of it.
Q How much did you have in there?
A We had $3,000 in there at that point.
Q What is that amount for?
MR. SMITH: Objection, Your Honor, relevance.
THE COURT: I'm going to overrule. You may answer.
A For legal services.
Q (By Ms. Bloodgood) I mean what kind of legal

services?
A Well if we need any legal services. If we need a lawyer for any reason whatsoever.
Q Is that in case you get sued?
A That would the one of the types of legal services we could use that for, yes.
Q Have you ever been sued before besides Ms. McNaughton?
A No.
MR. SMITH: Objection, Your Honor, relevance.
THE COURT: Sustained.
Q (By Ms. Bloodgood) You have administrative staff services, $18,000 in there, you hadn't spent a penny. What was that for? That's item 79?
A The year before they had to hire additional administrative staff to come in. These were not full-time workers, or part-time workers, it was a staffing company.
And we had put that in the budget because we didn't know if it was going to happen again the coming year. So we wanted to have that in the budget in case that happened.
Q Did you ever use that $18,000?
A No, we used it to fill other areas.
Q You moved that 18,000 over to other places?

A Yes. You realize that things are going well and you realize that, you know, as the year goes on when you reconcile this budget every month, there are times you have to move things to make things work.

Q We are just looking at November.

A Right.

Q When you say --

A As of November we hadn't moved it --

THE COURT: Please don't talk over each other. Thank you.

MS. BLOODGOOD: Yes, I'm sorry.

Q (By Ms. Bloodgood) We are just looking at November. When you've testified to the jury you couldn't afford $17,000 to keep Ms. McNaughton hired, and you had $18,000 in administrative staff services that you never used?

A At that point in the year, no, we hadn't used it.

Q But my question to you is, did you ever use it? Did you ever have to go out and hire temps the next semester after she was fired?

A We did hire --we hired an additional -- we only had one person in the front. We hired an addition person in the front.

Q Did you use this money?

A We had to move the money.
Q How much of it?
A Off the top of my head, I couldn't tell you. I'd have to look at the next set of budgets.
Q So you don't know how much of this money you had to use?
A No, ma'am, I don't.
Q But you are in charge of the budget.
Isn't it true that the next year, that next academic year, which would have been 2011 to 2012, you ended up firing one of those math teachers. You didn't rehire one of your math teachers, did you?
MR. SMITH: Objection, Your Honor, relevance.
THE COURT: Counsel.
(Whereupon, the following discussion was held at the bench.)
MS. BLOODGOOD: It's relevant because she's denied -- said that they did such a great job in math. They ended up firing one of their math teachers.
THE COURT: Pardon?
MS. BLOODGOOD: They fired one of their math teachers. It's relevant because she's saying the math teachers were doing a great job, she just needed another one.
MR. SMITH: She didn't say they were doing a

great job.

MS. BLOODGOOD: Well she said that --

MR. SMITH: The doors --

THE COURT: We are getting a little far off.

MS. BLOODGOOD: Okay.

(In open court.)

THE COURT: Sustained.

MS. BLOODGOOD: I don't think I have any other questions. Thank you.

MR. SMITH: Briefly.

THE COURT: All the time you need, Mr. Smith.

REDIRECT EXAMINATION

BY MR. SMITH:

Q On Exhibit 18 regarding all those numbers. My question is, Exhibit 18 on the budget?

A Uh-hum.

Q All the money and the funds and the line items that plaintiff's attorney was referring to, were those all already accounted for in other line items and couldn't be used in teacher salaries?

A Yes, the teacher salary line was -- it was what it was.

MR. SMITH: I have no further questions.

THE COURT: Recross?

MS. BLOODGOOD: No, Your Honor.

THE COURT: All right. You may step down. Thank you.

Call your next witness.

I didn't ask if you needed a break, now would be an appropriate time.

Please remember all my admonitions. Please let the bailiffs know when you are ready. We will let you tell us when you are ready to come back. Thank you.

Please rise for the jury.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, be seated.

We are going to -- they needed a break. Your witness can sit right here. Please take your break. They will let us know when they're ready.

(Whereupon, a recess was taken.)

THE COURT: Counsel, please approach for scheduling.

(Whereupon, the following discussion was held at the bench.)

THE COURT: How long do you think your witnesses are going to take?

MR. SMITH: I have one witness left. Probably 10 minutes.

THE COURT: All right. And then do plan on calling any in rebuttal?

MS. BLOODGOOD: No, I don't think I will be putting anything up.

THE COURT: Okay. What I was thinking about doing, just to kind of streamline the process, if it's okay with you, after you rest you'll argue motions.

I will give the jury lunch menus.

MS. BLOODGOOD: Okay.

THE COURT: Give you all 15 minutes or so to get your closing together, and then go.

MS. BLOODGOOD: Okay.

THE COURT: And then that way --

MS. BLOODGOOD: Get it done today.

THE COURT: If that's okay.

MR. SMITH: Sure. We have to argue charges at some point.

THE COURT: I'm sorry?

MR. SMITH: We have to argue charges at some point.

THE COURT: Argue charges?

MR. SMITH: Or address jury charges.

THE COURT: Well there is not a whole lot to argue.

MR. SMITH: Okay.

THE COURT: I will hear you, but.

MS. BLOODGOOD: You've got them ready. Okay.

THE COURT: I don't have -- I will listen to you. We will do a short in chambers if there is something. But there is not a whole lot left.

MR. SMITH: Sure. That's much easier.

THE COURT: Let me ask you this while I've got you up here. Do you stipulate there was a contract?

MR. SMITH: Yes.

THE COURT: You stipulate there was a contract?

MS. BLOODGOOD: Yes. I think they have agreed to that.

MR. SMITH: Yes, we stipulate.

THE COURT: Okay. I'm going to put that in my charge. But what I'd like to do is go through contract and offer and consideration. But then I'm going to say, the parties have stipulated that there was a contract, this is not for your consideration.

I like to do it for a couple of reasons. One, to help educate the jury. And, two, it just gives them the terms that they need.

MS. BLOODGOOD: Okay.

MR. SMITH: That's fine.

THE COURT: Is there anything just right now that you think that you want to argue in the charges?

MR. SMITH: Arthur (phonetic) v Shivers is that you have an employment contract that's for a term, your

damages are going to be for that term.

MS. BLOODGOOD: I think I addressed that. I have the Shivers case with me. I don't think that's what it says.

THE COURT: Here is my thought as well. If I am wrong in what I have done and Ms. Bloodgood appeals, if we allow them to rule on any amount of damages, I can fix it. I can't fix it if I overdid them. and that's all. Just so -- you understand what I'm saying?

MR. SMITH: Yes.

THE COURT: So that you don't have to necessarily try this again if I'm wrong. I always look at it, you understand what I'm saying?

MR. SMITH: Yes, ma'am.

THE COURT: Because then that way we know what the total award would have been, in essence, even if there were other causes of action. Does that make sense?

MS. BLOODGOOD: Yes. I'm okay with that.

THE COURT: My view is a big-picture view. I don't know --

MR. SMITH: A bigger picture, I agree.

THE COURT: I understand what you are saying, and I'm not saying at this point that you are right or wrong.

MR. SMITH: Yes, ma'am.

THE COURT: I am looking at a bigger picture.

MR. SMITH: I agree with you now. I can do a JNOV.

THE COURT: Correct. And I can always reduce the award based upon it. And we can address it at JNOV.

I just like -- and I know that this may not be the most correct legal way, but I think it's a very practical way to address things.

MR. SMITH: Because they alleged that the TPB under the charter, which is a contract, you ruled in my favor on that, I don't need to make a motion to limit evidence to argue it in the closing.

But because that's no longer a contract claim, TDB or otherwise, we'd like to argue a short motion to exclude allegations that we breached anything in the charter because she is not a TPB.

MS. BLOODGOOD: Well, I'm not --

THE COURT: Ms. Bloodgood is going to argue the remaining cause of action and all reasonable inferences in her closing. And that's what I'm going to allow her. If she starts getting astray, then you may object during her closing.

Do we need to have a charge conference now?

MR. SMITH: I don't think so.

THE COURT: Okay, good.

(In open court.)

THE COURT: Let's bring in the jury.

(Whereupon, the jurors enter the courtroom.)

THE COURT: Thank you, please be seated.

Call your next witness.

MR. SMITH: May it please the Court. The defendant calls Kathryn E. Pedings to the stand.

MS. KATHRYN E. PEDINGS-BEHLING,

after having first been sworn to tell the truth, the whole truth and nothing but the truth testified on her oath as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Good morning. How are you?

A Good morning.

Q I introduced you as Kathryn Pedings. Since this case has started, have you gotten married?

A Yes.

Q Good. How long have you been married?

A Since December, about 5 months.

Q Congratulations. Can you please tell the jury where you work?

A I work at the Charleston Charter School for Math

and Science.

Q And can you explain to them your educational history, high school and college?

A Yes. For high school I started at Calvin County High School, and I ended up at the Governor's School, South Carolina Governor's School for Science and Math where I graduated in 2004.

I then went to the College of Charleston and graduated with a BS in mathematics and secondary education in 2008. And I also have received an MS in mathematics from the College or Charleston in May 2012.

Q And your MS, is that a Master's?

A Yes.

Q Congratulations. Who are you currently employed by?

A The Charleston Charter School for Math and Science.

Q And what is your current job title?

A Math teacher.

Q And how long have you been a math teacher at the Charleston Charter School for Math and Science?

A I just ended my third year there.

Q Do you know Dr. Kirshtein?

A I do, yes.

Q Do you know Ms. McNaughton?

A I do, yes.
Q Were you working for the school in the fall of 2010?
A Yes.
Q And what was your job title in 2010?
A Math teacher.
Q Was there a math department head at the school that year?
A Yes.
Q Who was the math department head?
A I was the math department head.
Q What does that mean?
A That means I am the supervisor over all of the teachers in my math department.
Q Okay. How many teachers were you supervising at the time?
A There were four of us in the department at that point in time.
Q You actually teach math hands-on each day?
A I do, yes.
Q What math classes do you teach?
A This past year?
Q Yes, this past year.
A This past year I taught AP Calculus, AP Statistics, Honors Pre-calculus, and CP Probability and

Statistics.

Q Do you give tests to the students in those classes?

A Yes, I do.

Q And in 2010/2011, did you give tests to the students?

A Yes.

Q Through your office, as the department head, did the school give a county-wide or a benchmark math test to the Charleston Charter School students in the Fall of 2010?

A Yes, we did.

Q Tell me about that.

A That year Charleston County School District developed new benchmark tests for Algebra 1. They were brand new that year.

And I, because I'm a department chair, I attend county-wide department chair meetings. And so I learned about them there, I received them there, and I decided to give them to the Algebra 1 courses at our school.

Q Was it required?

A It was not required because we're a charter school.

Q And if you weren't a charter school, but a

regular public school, would it have been required?
A Yes, it would have been required.
Q Why did you decide to give it to the students at the charter school?
A So we had two different teachers teaching Algebra 1. So I really wanted a picture as a department chair of sort of the relative comparedness of how the two teachers were doing.
Q Regarding their students' performance?
A Yes, sir.
Q And so what did you do?
A So they gave the test in about mid-October, that was the end of quarter one. It was a quarter one benchmark test.
Q Okay. And sometime thereafter did you receive the results?
A I did, yes.
Q If you would look in front of you, we have two defendant's exhibits marked; Defendant's 38 and Defendant's Exhibit 39. Are those accurate copies of tests given to the charter school students?
A Yes. These are the scores, yes.
Q Is 38 the one, the test given in October?
A Yes, that's the October test.
Q And the Defendant's Exhibit 39, when was that

test given?
A This test was given mid-January, January 15th through 20th. Somewhere in that area of the school year.
MR. SMITH: Your Honor, we'd offer Defendant's Exhibit 38 and 39 into evidence.
THE COURT: Any objection?
MS. BLOODGOOD: No, Your Honor.
THE COURT: 38 and 39 into evidence without objection.
(Whereupon, Defendant's Exhibit Nos. 38 and 39 are admitted into evidence.)
Q (By Mr. Smith) Did you actually personally received Defendant's Exhibit 38 at some point?
A I did, yes.
Q In about what month?
A October. It was about a week after the test was given.
Q And the test was given mid-October?
A Yes.
Q And can you explain, before we start talking about numbers, can you explain the scores to the jury?
A Yes. So what you see here is the percentage of questions that the students got correct on those tests.
Q And you have one column that says Sarah Lesica.

Who is that?

A She was our 9th grade Algebra 1 teacher at that time.

Q And we have on the right side Larry Singletary. Who was he?

A He was our 8th grade Algebra 1 teacher.

Q Okay. And so they are teaching different grades?

A Yes.

Q Okay. And what did you discern, or what did you conclude as a result of seeing this document?

A So when I understand these scores, at the bottom of this exhibit those are the average scores for the teacher's classes.

And I was immediately concerned about the discrepancy between the 8th grade Algebra 1 and the 9th grade Algebra 1 scores.

Q And my question is, for Lesica, what were her two raw scores?

A So her average for one class was 62.9. And for her other class, 73.2.

Q Okay. And that's a 9th grade class, correct?

A Yes. Those are both 9th grade classes.

Q And for the teacher Larry Singletary, what were the scores for his classes?

A His three averages, one was 30.9, one was 56, and one was 37.1.
Q Okay. Did all these students take the same test?
A Yes.
Q When you received the scores, what did you do?
A I took these to Dr. Kirshtein.
Q Why?
A I was really concerned with the discrepancy between the scores. It was a new test, so I wasn't so much concerned with the actual grade, but really the difference between the two classes. That's a very large difference.
Q Okay. And we are talking scores of 65 average versus 35 average or so?
A Right, yes.
Q Thirty points different?
A Yes.
Q And when you went Dr. Kirshtein, what did you tell her?
A So I talked to her about the scores, just about how different they were. It was a new test, so I kind of gave her some history from the county meetings that I had been to.
Q What happened next?

A We first, in October, we tried to come up with a plan to help get those students caught up in Mr. Singletary's class.

Q What was the plan?

A So I started reviewing his lesson plans and meeting with him. And I went and did several observations in his classroom.

Q Did that help bring up the scores, or could you tell that yet?

A We could not tell it at that point in time.

Q Okay. And what did you do next?

A So Dr. Kirshtein and I continued to meet on the performance of the students in the classroom.

Q Did you meet daily, weekly?

A Maybe every other week.

Q Okay. So it was a few weeks after the October test was taken, mid-October, it was a few weeks and then a few weeks?

A Yes.

Q Okay. And mid-November, where were you at? As far as doing something to bring the math scores up?

A Well I was not having very good observations with his classroom, I talked to Dr. Kirshtein about that. I can't speak to whether she observed it. I don't remember that part.

But I talked to her just about the level of math that was being taught in the class.

Q Okay. What did you tell her about it?

A I was concerned. I was concerned that the students wouldn't get to a point by the end of the year where they would be successful on a statewide end-of-course exam.

THE COURT: If you could slow down just a little bit.

THE WITNESS: Oh, I'm sorry. Yes.

Q (By Mr. Smith) Concerned about students on a statewide level?

A Yes. So at the end of that course they were going to take a statewide test, an end-of-course test.

Q Is that the one coming in January you spoke about earlier?

A No, that's at the end of year in May. And I was concerned that our students were at a -- going at a pace that would not prepare them for that.

Q Okay. And what did you do?

A Dr. Kirshtein then suggested that we could look for another math teacher.

Q An additional math teacher, or one to replace Mr. Singletary?

A I'm not clear as to which one she meant. But

she just indicated to me that she would be willing to help find a math teacher to take over the 8th grade Algebra 1.

Q And in fact did the school begin looking for a teacher?

A Yes, we did.

Q How did that start?

A I am very familiar with a lot of people in the College of Charleston School of Education. And so I reached out to them and asked if they had any December graduates that they felt were exceptional students.

I did not receive names, but they then forwarded my email onto I guess a few of the students. I don't really know that part. And I was then contacted by a math teacher.

Q Who were you contact by?

A Tammy Black.

Q Did you indicate anything to Dr. Kirshtein after Ms. Black contacted you?

A I did. She sent me her resume, and so I immediately sent that to Dr. Kirshtein.

Q At some point did you interview Ms. Black?

A Yes, we did.

Q And when you say we, who are you talking about?

A Dr. Kirshtein and myself, and I think Ms. Tolbert was there as well.
Q And did she pass the interview?
A Yes, she did a great job.
Q Okay. And did you hire her? Did the school hire her?
A Yes, the school hired her.
Q As what?
A As the 8th grade Algebra 1, and she also had 7th pre-Algebra. So as a middle school math teacher.
Q Okay. Did anything happened to Mr. Singletary's duties at that point?
A So when we hired Ms. Black and she came on, Mr. Singletary moved to a position of math remediation for our middle school students.
Q And can you explain to the jury what math remediation is?
A Yes. So our students in the middle school were behind. And so Dr. Kirshtein asked me to find a program that would help them build their skills in preparation for those tests at the end of the year.
And so I found a program that would do that. And so we put them -- it was sort of a supplemental math class. It did not take the place of their other math classes.

Q Okay. What happened next? They're going through remediation, and they're getting extra math classes; is that correct?

A Yes.

Q And what happens next?

A And so we get to the second quarter benchmark. So the second quarter Ms. Black had been teaching between three and four weeks at that point in time. And so the students took the test.

And do you want me to talk about the result?

Q Sure.

A And so Ms. Black's results were 51.6 for the first class, 29 and 28.75. And then Ms. Lesica's results this time were 40.75 and 47.38.

So again what we are looking for here is sort of the difference in between those classes. And there was a much smaller difference between the Algebra 1 with Ms. Black and Ms. Lesica's scores.

We were very excited about that closing at that point in time.

Q So between hiring Ms. Black, and assigning Mr. Singletary to begin remediation, did it work?

A We believe it did, yes. Based on these we believed we are moving in the right direction, yes.

Q Pease answer any questions Ms. McNaughton's

attorney has for you.

A Okay, thank you.

THE COURT: Ms. Bloodgood.

MS. BLOODGOOD: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. BLOODGOOD:

Q Ms. Pedings, let me get this straight. You have got a Mr. Singletary math teacher who is not doing a good job and his class isn't doing good in math, right?

A Yes, that is correct.

Q Well you know, nobody fires him. He is not fired. He wasn't fired that year, was he?

A He was not. No, ma'am.

Q But you move him out of his class and you put him in charge of what, a lab?

A Yes, ma'am.

Q So he was just making sure kids sat in front of a computer and did the program that you bought him?

A Yes. And he would pull kids for certain sort of small-group learning environment, yes.

Q Was he hired the next year?

A He was not brought back the next year. No, ma'am.

Q And you know Ms. McNaughton was a good performing teacher, right?

A I cannot speak to that. I never did any observations.

Q Okay. And you say it's your testimony that you think because you brought a new teacher in to help out a bad performing teacher, that in three weeks the math scores were proving?

A So she wasn't brought in to help a bad performing math teacher. She was brought in -- she took over those classes at that point.

So between three and four weeks we had come up with a plan that she was instructing the students.

Q Well of course she wouldn't have taken over those math classes if he was doing a good job, would she?

A I don't know how -- no, I guess not. No.

Q Okay, thank you.

MR. SMITH: Briefly.

THE COURT: Take all the time you need.

REDIRECT EXAMINATION

BY MR. SMITH:

Q The plan was, it occurred to hire a new math teacher? Yes?

A Yes.

Q And to move Mr. Singletary to remediation?

A Yes.

Q Do you believe remediation was important for the students?

A Yes.

Q Okay. Tell the jury why you think remediation was important?

A The students were not at the place where they should have been at. And so in order for them to sort of catch up and really get the math skills that they needed, because math builds upon itself.

So if we have a weak year of math and they move onto the next year, we are asking for trouble in our high school classes where we are demanding more of them. And so it is absolutely important that they get those skills that they need at that middle school level.

Q Is it fair to say that the combined efforts of Mr. Singletary and Ms. Black were the reasons scores went up and there was less difference between scores?

A I believe that remediation helps. That's really all I can speck to. I believe in math remediation for those students. I believe it was the right path.

Q And to your knowledge do you believe Mr. Singletary was a successful remediation math teacher?

A In that classroom, yes.

MR. SMITH: Thank you.

THE COURT: You may step down. Thank you.

Call your next witness.

MR. SMITH: Your Honor, the defense rests.

THE COURT: Is this witness excused?

MR. SMITH: Yes, ma'am.

THE COURT: You are excused. But you are free to remain with us.

THE WITNESS: Thank you.

THE COURT: Preserving all motions and matters, does the plaintiff have any rebuttal witnesses?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Ladies and gentlemen, that indicates to the Court that you have heard all of the evidence and the testimony that will be presented in this case.

There are some matters that I must take up outside of your presence. In scheduling I have determined that the best procedure for us to follow is we are going to work through lunch.

And so during this break you are going to be provided menus. And when you return back in the courtroom, you will hearing closing arguments on behalf of the plaintiff and the defendant. And then I will instruct on the law applicable to this case.

Please understand that the exhibits that have been entered into evidence will go back to you during

your deliberations. So you will have an opportunity to review all the exhibits that have been introduced into evidence.

Please do not begin your deliberations. And do not discuss this case amongst yourselves. There are matters that I must take up outside of your presence. And please take this time to enjoy a short break while we take care of our business in the courtroom.

Please rise for the jury.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, please be seated.

All right, counsel, I understand you probably have some motions.

MR. SMITH: May it please the Court.

THE COURT: Yes, sir.

MR. SMITH: At the close of all the evidence, the defendant moves for a directed verdict on the sole count that's remaining, the sole cause of action is for breach of contract.

The first argument is under the Shivers versus Harland case, the rule is if there is a written contract for performance or for a term, then the plaintiff is limited to damages for that particular term.

In this case we admit that there was an

employment contract, it was for one year. The plaintiff was -- employment ended in December 2010, her contract was through the end of July 2011.

Based upon the Shivers case, we would ask for a directed verdict on the issue that her damages are limited to the amount she would have earned during the term of her contract, and no extra.

Secondly, there was no breach at all. In a contract case the plaintiff must show an affirmative duty, via the contract, that's clear and definite and that bound or that binds the defendant to do a particular act.

In this case she points only to the fact that she was hired for one year, in the 2010/2011 employment contract. However, when we read contracts, we read them as a whole. We have to give every word meaning if at all possible.

In this particular case the facts are undisputed that there was no funding after December 31st, 2010 per the contract. The plaintiff on the stand admits that it was Dr. Kirshtein's decision regarding whether or not there was or was not funding.

Because the contract is clear that it's contingent upon ongoing funding, and because it's undisputed there was no ongoing funding, the defendant

believes its entitled to a directed verdict that there was no breach of contract, and therefore no damages.

Under the tort claims act 15-78-10 et seq., the tort claims act says we can't be held liable for discretionary acts. All the evidence in the case regarding the funding, and all of the evidence in the case regarding the budget, points to one issue and one issue alone under the 15-78-60, parenthetical 5.

This was a discretionary exercise. The plaintiff admits that the school had discretion, and therefore we cannot be held liable for a breach.

Also under 59-40-50, parenthetical 4, because funding teachers' salaries and setting budgets are discretionary acts, we are entitled to a directed verdict on the remaining breach of contract claim. Thank you.

MS. BLOODGOOD: Thank you, Your Honor.

THE COURT: Briefly.

MS. BLOODGOOD: Shrivers, of course, is a case that -- what was at issue before the court was whether a contract had a definite term or an indefinite term, and therefore whether wages were owed indefinitely or just for the term of the contract.

It's a wage claim. It doesn't have a whole lot to do with a breach of contract where the law is clear

you get consequential damages. The purpose is to put the plaintiff in the position she would have been had the contract not been breached.

This is not purely -- she is not claiming -- in this case, because of the situation, the wages, 17,000, does not put her in the place she would have been. She lost her opportunity to be in PACE. She can't go back to her old job. She can't get a new job. So I think the career damages in this case are going to be particularly significant.

THE COURT: Ms. Bloodgood, just so I'm clear on that Shrivers case. The true issue was the amount of damages for the notice period that Mr. Shivers was given. Is that --

MS. BLOODGOOD: That's exactly correct.

THE COURT: That's a better, so that we can kind of break that down so that the record is abundantly clear why I am going to assess special damages. Because I don't find the Shivers case directly on point in this particular matter.

MS. BLOODGOOD: Yes, Your Honor. Thank you.

THE COURT: Thank you.

MS. BLOODGOOD: That clarifies it.

In terms of the tort claims act --

THE COURT: Does that even apply with the sole

cause of action, Ms. Bloodgood, at this point?

MS. BLOODGOOD: I'm not asking for reinstatement, so I'm not asking for front wages. So I don't think that it's on point and that it's relevant.

This is a breach of contract. And the issue is really the consequential damage. And what is it going to take, as a result of their breach, to make my client -- to put her back in the position that she would have been, which was a PACE certified teacher.

The jury will find, I think, from the fact that the principal has testified every other PACE teacher there completed that year.

In terms of the tort claims act, it's our position that the determination of whether or not the defendant exercised discretion is going to be something that is clearly within the realm of the jury.

In Wooten versus South Carolina, a case involving the Department of Transportation discretion immunity under the tort claims act, the court held that the department's failure to place signs was a question for the jury.

Here the question for the jury is was the school -- did it exercise sufficient, or any discretion when it decided that the clause in the contract means, insufficient funding means you have insufficient

funding after the principal takes your funding and gives it to somebody else.

If the board never talked about that, and there is no evidence in the record that they ever did because no board member ever came up on the stand, and there is nothing in the record to show that the board exercised any discretion in interpreting the contract, or that the principal thought about what that meant, and whether or not that particular clause allowed her -- it was broad enough to allow her to say, well, in all instances forever there is always insufficient funding because I could always move money from one person to another.

That's a jury question. They can decide whether discretion was issued in that.

And when no discretion is exercised, when competing alternatives of what you can do are not weighed by the jury, then this particular clause in the tort claims act does not apply and will not grant them immunity.

Specifically it's the SAAB case versus South Carolina State University. The Supreme Court said they actually have to have weighed competing considerations when making decisions regarding how to address the situation. And they have to have used professional

standards in doing so.

There is nothing in the record that the principal weighed anything, used any standards, talked to anybody, decided anything other than she was authorized to move that money around.

So without any evidence in the record, I think it is clear that the jury could find that there was no exercise of discretion, and this particular provision of the tort claims act would not apply.

THE COURT: All right. I have heard nothing that makes me change my analysis in ruling from the close of the plaintiff's case. Your motion for directed verdict as to the remaining cause of action for breach of contract is denied.

Anything further?

MR. SMITH: Nothing from the defendant.

MS. BLOODGOOD: No, Your Honor.

THE COURT: All right. Counsel, just briefly please approach to review the verdict form.

(Whereupon, the following discussion was held at the bench.)

THE COURT: I'm sorry, you all, we're not going to -- you don't mind doing it this way?

MS. BLOODGOOD: No, I'd rather work on my closing.

THE COURT: Okay. I just was thinking that I'm going to just include a line for special damages.

MR. SMITH: Okay.

THE COURT: No objection?

MS. BLOODGOOD: No.

(In open court.)

THE COURT: All right. Counsel has reviewed the proposed verdict form, there is no objection.

We had a prior bench conference concerning the changes. Anything further? Anything else you wish for me -- what about the unemployment benefits provision? I charged that --

MS. BLOODGOOD: I would like to charge that that should not be --

THE COURT: What's your position on that, Mr. Smith? I was going to -- it's in the charge as prepared now.

MR. SMITH: Well I think it's a straight contract damages under the Eastern Distribution case. I can argue it. But for special damages, things outside of the contract, I think I can argue it.

THE COURT: It's going to be included in the charge.

Is there anything else that you wish for me to include or not include?

MR. SMITH: Not for defendant.

MS. BLOODGOOD: No, Your Honor.

THE COURT: All right. And the parties have stipulated that there was a contract; is that correct?

MR. SMITH: Yes, ma'am. The written December -- written August 2005 {sic}, contract.

THE COURT: Is that correct, Ms. Bloodgood?

MS. BLOODGOOD: Yes.

THE COURT: I'm going to include in the charge that the parties stipulate that there was a contract, and that is not for their consideration. But I will give an explanation of what the terms of a contract, so that they have an understanding of the terms.

Anything further?

MR. SMITH: Yes. When you instruct the jury that there is a contract, will you identify it as the August 2005 {sic} employment contract?

THE COURT: August -- is that?

MS. BLOODGOOD: That's fine.

THE COURT: All right.

MS. BLOODGOOD: That's the date of the exhibit.

THE COURT: What exhibit number is that?

MS. BLOODGOOD: I think it's No. 3, Your Honor.

THE COURT: Plaintiff's 3. And I will just include it in the -- Plaintiff's 3.

Thank you we will be at ease. Is 15 minutes enough for you?

MS. BLOODGOOD: Yes.

MR. SMITH: That's fine.

THE COURT: All right we will be at ease for 15 minutes. So 5 till 12:00.

(Whereupon, a recess was taken.)

THE COURT: Plaintiff's 3 and Defendant's 1 are the same?

MR. SMITH: I believe so, Your Honor.

THE COURT: And you wish for me to instruct them that both of the exhibits --

MR. SMITH: Yes, ma'am.

THE COURT: Okay, thank you.

All right. Anything before we bring in the jury?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: No, Your Honor.

THE COURT: All right.

(Whereupon, the jurors enter the courtroom.)

THE COURT: Thank you, please be seated.

Ladies and gentlemen, as I indicated to you we will now hear closing arguments on behalf of the plaintiff and the defendant. The order of this is the plaintiff will go first. Then you will hear closing

argument from the defendant. And then the plaintiff will have an opportunity for a brief rebuttal.

After they have completed their closing arguments, I will instruct you on the law applicable to this case.

Ladies and gentlemen, remember just as I instructed you what is contained in their opening statements was not evidence, neither is what is contained in their closing arguments to be considered evidence.

Ms. Bloodgood.

Ms. BLOODGOOD: Thank you, Your Honor.

All right, thank you for your attention during the trial. In a little bit you are going to go to the jury room, and you are going to have three jobs.

The first job is you are going to decide the facts. The second job is you are going to apply the facts to the law that the Judge will tell you what the law is. The third job is you are going to discuss with each other and try to convince each other as to what should happen in this case.

And I'd like to review the safety rules with you. A school must honor its contracts. A school must require its principal to follow the rules in its charter and its handbook. And a school is responsible

for its principal's actions.

In this case, my client had a contract with the school to teach art for a year. But she was a PACE teachers, she was an induction teacher. And what teaching that art for a year would mean to her was that she was then well on the path to becoming a certified teacher.

The evidence was that she was a good teacher. She got a letter of recommendation. All the other PACE teachers stayed on the next year. There was no reason to believe that she wasn't going to continue down this path that she had worked hard to get to. And she had done a lot of work to get into the PACE program and be able to be in this position.

It is our position that through the handbook and the charter, the school represents to the public and to the Charleston County School District that it's going to teach art. They represent that if they are going to fire somebody in the middle of the year, it's going to have to be because they have done something bad; those list of things that they admit that she didn't do.

And that if they are going to layoff a teacher, you'd think somebody would have a layoff policy. Have you ever heard of an employer having a layoff without a layoff policy? It's not a smart thing to do.

There was no layoff. No one else was laid off. She was terminated. Her contract was breached.

In the middle of the school year she was told, we are not paying you for the rest of the school year, you can go home. And it's not because there was not enough money, there was plenty of money.

I showed -- you're going to see an exhibit that's Defendant's 18 that goes on and on about the school had 2.6 million. Then it had 1.5 million available in number. It had plenty of money.

They went and hired an art teacher right after her. Not only did they have plenty of money, they certainly could have put her -- found something else for her to do, which maybe cover the lab for the math teacher who was so poor. How hard would that have been for her to do.

But here we have a board that absolutely refuses to accept responsibility. Throughout this trial you have not seen board members sitting in this courtroom. They haven't shown up to witness what was going on here. They have the same reaction today that they had when Ms. McNaughton was trying to contact them and tell them that something was wrong.

Your job as the jury is to make them accept responsibility. That is your job. When an employer

chooses to break basic safety rules, simple things that keep our families safe and off of -- out of Medicaid and having some money, that employer has chosen to break the rules and should be told what is going on happen.

Now let's just review what she actually lost. And this was the testimony that she made 34,000 a year. So for that year, that half a semester that she was out, she was out 17,000.

There was also testimony that during that year she would have had another 1,000 contributed into her retirement. She got 1,000 the first semester. You'll see that on the exhibits that are in there. You will see her payroll stub.

Now I'm not even counting, this is a very conservative estimate, I'm not even going to count the fact that she had to pay for COBRA, that she looses her health insurance, that she doesn't have retirement anymore, that her house is -- the second mortgage is foreclosed upon, and that she starts getting calls from credit companies. She has no credit. She can't use credit cards anymore. Her credit is ruined.

All of those things happened to her too. And that happened -- no, she did not have a contract with the school that they would pay her mortgage, but she

had a contract with the school that they would pay her salary and that's how she pays her mortgage. If you don't have income, you cannot pay your mortgage, you cannot pay your credit cards. So she certainly, right-out-of-pocket she had that.

But she also had something else and I call them lost -- career damages. And these are what the Court is going to tell you are special damages. This is something that because of the situation that she was in, she suffered more than most people.

Had she been a certified teacher with years of experience, she wouldn't have had these career damages.

MR. SMITH: Object, Your Honor. Career damages are not claimed.

THE COURT: Your objection is noted.

You may continue.

MS. BLOODGOOD: Thank you, Your Honor.

She would have been able to do what she intended to do at the age of 54, she's now 56, let's change careers, be a teacher for another 12 years. And we know that she was making $34,000 teaching just the first year even before getting that certification.

Now being very conservative, not counting raises, not counting anything, if she is going to teach for 12 more years, you will be able to do the math,

that's $408,000. Now she's testified, and you'll see, that one year she made 15, and the other she made 16, but it was mostly unemployment benefits.

And next year when that runs out, she thinks she will make nothing. But, quite honestly, she can get a job at minimum wage. There are jobs available at minimum wage.

So let's assume that she can find a job for minimum wage. Because she's told you she is not going to find one in graphic arts, and she's not going to find one in teaching. She is going to have to just be desperate and go find something.

So let's say she could make minimum wage and she could make 15,000 a year for the next 12 years. I'm going to represent to you, and you can do the math -- or let's even say 16, let's make it higher, that's the most she made in the last two years, let's say 16. That's 192,000.

So we subtract that. Because she has a duty to go out and mitigate her damages, that's what the Judge will tell you. That means she has a duty to go out and see what she can make.

But even if she does that, she is out $216,000 in damage to her career, damage to her professional reputation. Money that she will not make up because

her teaching career has been ruined. And those are called special damages.

You know that as parents your job is to teach your children to follow the rules. You follow the rules to be safe and to make sure you have a job so that you can pay your mortgage, so you can pay your bills, and you don't end up, through no fault of your own, being in the place where Ms. McNaughton is.

And you also are told that if somebody breaks the rules, you should report that. You should go and say, this is wrong, you are not -- you are breaking the rules. You should honor your contracts. You should follow your charter and your handbook.

And when Ms. McNaughton tried to do that, she got the same reaction, no response from the board, same you are getting here in the lawsuit, no response from the board at all.

And now she is being accused of not -- they don't like it because she filed a lawsuit. And I'm going to have to put on my civics teacher hat here because I did teach civics.

But this whole judicial system is about making people follow the rules. That is your job as the jury. You are the conscience of the community. Your job is to make sure that when there are rules, when there are

contracts that if the employer refuses to follow those rules, there is somebody. You are the safety net. You are the people who can say, no, that's not justice.

You are the people who say to the employer, who send a message like a beacon or a signal that says stop, that's wrong. And we're going to tell you that it's wrong and don't do it again, don't do it to the next person.

Justice is about accepting responsibility. The school and the principal need to accept responsibility. If they're going to fire somebody, they are going to have to pay the consequences of the harm that they caused to that person.

In some ways I like to think about a verdict from a jury as an action symbol. The same way that you salute a soldier, a soldier salute, or we put our hand over our hearts to say the Pledge of Allegiance, or we stand up when the jury comes in the room. Those are action signals. Those are signs of respect.

And I would ask that in this case your action signal be your verdict. And that you send a message. And that you say, in this case justice is putting Ms. McNaughton back in a place that she would -- it's not going to fix it, you cannot undue two years of problems and not paying your mortgage, your credit, and not

getting a job and what she has gone through.

But you can say, and I feel comfortable saying, here is justice in this case. It's her actual damages, and it's her career damages. And that's a conservative amount because she's suffered for two -- this is not over for her. It's not going to fix it.

She probably will never be a certified teacher. She will never go back to where she was before she tried to be a certified teacher. But in this case I feel comfortable that that would send a message to the school. Thank you.

THE COURT: Mr. Smith.

MR. SMITH: May it please the Court.

May I have a second to set up.

THE COURT: You may have all the time you need, Mr. Smith.

MR. SMITH: Thank you, Your Honor.

May it please the Court.

THE COURT: Yes, sir.

MR. SMITH: The case didn't last too long. Thank you so much for paying attention. I noticed each of you during trial, you were very attentive and we want to thank you very much.

I don't know if you recall my opening, I asked you to wait. Because I've found through my career

there is always two sides to every story. Thank you for waiting.

Now you have all of the evidence. The only claim left before you is a breach of contract claim. And the Judge is going to instruct later what the contract is.

She is going to tell you the only contract between the parties is the employment agreement, okay, signed August 5th, 2010.

And the plaintiff's counsel is exactly right. Absent this contingency in the contract, we were required to employ her for one year. What you are going to learn when the Judge instructs you on the law, is that you've got to read every contract as a whole. You have to read every contract to give each word meaning.

So when you see someone that has an employment contract, and only one employment contract for one year, you also have to give meaning to this phrase. This employment agreement in contingent on funding and enrollment, as well as the said teacher meeting certification and other requirements.

Now you heard evidence from the stand, what happens at the Charleston Charter School? What happens when there is not enough enrollment and folks have to

get laid off because of budgets? You know what happens? Folks lose their jobs. It's happened before, so Tammy Kirshtein, Dr. Kirshtein was hired to help watch the budget, make sure that there is sufficient money to pay our bills.

Your first issue is you've got to decide is whether or not there was a breach of contract. The contract is for one year, and one year only. The plaintiff on the stand testified her contract didn't go to 2011/2012 or 2012/2013. Her contract didn't extend beyond one year.

Therefore, as an initial matter, I would submit to you those figures have no basis in the law and no basis in the facts. We didn't hire her for 10 or 12 years. The Judge will say, when she charges you on contract, look at the entire document. Use your common sense.

Was there a breach of contract? The only evidence in the case regarding the funding is that we didn't have funding to hire a new math teacher, add a math teacher, and keep on all the other teachers. The line items are clear, it's Exhibit 18. That's how much money we had, we couldn't go over, we stayed right where we were.

So the question is, contingent on funding. This

contract does not say we have to spend ever penny we have. Clearly you know, if you run a business, you've got to keep some in reserve. Clearly you know, if you run a business, you've got to have line items yourself.

Okay. I got to pay this much in payroll tax. I've got to pay this much for rent. I've got to pay this much for the lease.

All the extra money that the plaintiff alleges was there to pay her salary, that money was spoken for. I just ask you to use your common sense on that particular issue.

Safety rules, the school honors its contracts. Each day she worked, we paid her. We honored our contract. When we no longer had funding, she lost her job. And everybody is sorry she lost her job.

But you saw in the character, as we read to you more than once, our main concern is the students. Page 107 of the charter, the board delegates, and the principal has certain authority for student achievement.

The principal really had no reasonable choice here when it came to raising the math scores and hiring an additional teacher. She had to do something. She did what was most reasonable under the circumstances. And she did what the contract allowed.

So as an initial matter, we don't believe there was a breach of contract and we'd ask that you return a verdict in favor of the Charleston Charter School for Math and Science.

One claim only. The Judge is going to say there is only one claim left in this case, it's a breach of contract claim based upon this.

I'm going to ask you to use your common sense. Don't choose one word here, don't choose one word there. Don't choose simply one word in the contract. It's got to be read as a whole.

If you disagree with us, and you believe for some reason that the charter school violated or breached the employment contract, I would submit to you that the most damages you can award are for the remainder of the term, $18,000.

When the Judge talks to you about a contract, she is going to talk to you about it's an agreement, it's a meeting of the minds, the parties must agree. She is going to tell you those things.

There is absolutely no evidence in this case that my client agreed to hire Ms. McNaughton for more than one year. None. She offered no evidence to indicated she would be rehired back. I asked her on the stand, do you have another contract? Did anyone

promise you you would be rehired? No. No, was her answer.

The Judge will also talk to you about damages. The Judge will say, speculative damages are not allowed. You may recall that the plaintiff sat on the stand. And I said, isn't it true that recently you got a job making $27,000? She said no. So I pulled out her deposition.

The deposition is taken under oath. She testified she understood it. She testified she understood the question. I said, how much money are you making now? $27,000. When I got her on the stand she says, I'm not making anything except for unemployment.

I hope you have that written down in your notes. Because when they ask for 200- or $300,000, when she testified under oath she's got a job making $27,000 a year, that just ain't right on so many levels. Beyond the level that we only agreed to hire her for one year, but on the same level is that she testified she's making money. We ask that you keep that in mind.

Layoff policy. The law doesn't require a layoff policy. You are not going to hear anything from the Judge that says the law requires a layoff policy. The law does not require a policy to say, you have to go

eat in the cafeteria. It doesn't have a policy that says you have to enter through the front door. There is no law for that.

There is nothing legal or otherwise that requires us to have a layoff policy. When you layoff someone because of funding, you bring them in and say, look, we lost money.

You may call it a contingency in a contract, you may call it a layoff, you may call it fire, but it is what it is. We didn't have funding for her position. And we put the children first.

So when you go through the Defendant's Exhibits, I will ask you to note something. Each time Dr. Kirshtein sent out an email, it says something magical at the bottom, and she really believes in it. Let's see, just one second. If we don't stand up for children, then we don't stand up for much.

I cannot tell you how proud I am to work with the Charleston School of Math and Science. Their volunteers. The board members are volunteers.

The plaintiff would have you believe they didn't sit in this courtroom because they weren't interested. In fact the Judge issued a ruling before you got in here that kept all the witnesses out of the courtroom, and potential witnesses. That's why you didn't see

Caryn Vedane, in the red dress, until after the evidence was presented.

Plenty of money. The plaintiff says we have plenty of money, we don't. Once we go to zero, the school closes. We live tight. We do the best we can do.

The plaintiff would have you believe that justice in this case is accepting responsibility. We agree with that. At some point you are going to look at the employment contract and you are going to see, on the very bottom where Cynthia McNaughton signed, and just above her signatures it says, I accept the terms of this appointment.

It's time for her to accept responsibility for what the contract says. She testified she read this. She testified she understood it. And she knew we had to have funding.

With that said, you'll go out and deliberate in just a moment after the Judge charges you on the law. We ask that if you find that we breached the contract, you will limit it to the one year. That's all we agreed to.

There has to be a meeting of the minds. Not in a million years is there any evidence that we agreed to pay anyone or hire anyone for 12 years.

But we hope that you find in favor of the defendant and issue a verdict in our favor because we think we did the right thing. All the evidence shows that we did what we did because we put children first. And we did what we did because our charter requires us to put student achievement above everything else.

Thank you so much.

THE COURT: Ms. Bloodgood.

MS. BLOODGOOD: Thank you, Your Honor.

I never said that the school has to hire anyone for 12 years. It's a one-year contract, you'll see that.

But the career damages, let me explain a little more carefully so that I make sure you understand. The career damages is meant to put -- when you break a contract, you have to put the person back in the place they would have been if you hadn't broken that contract. That's all it is.

It says, if you hadn't breached that contract, she had a good chance of being a PACE certified teacher. Because everyone else there was. And she was going to work a year. I'm not saying she was going to work more than that. But she was going to be a PACE certified teacher. And that was going to give her a steady job, health insurance, retirement, much more

than 34,000. And she testified she intended to work somewhere.

So the career damages is what the damage to her professional ability to make money for the rest of her life. It's nothing about a 12-year contract.

Now contracts, it's true, you look at their terms. So let's look at the terms. It's contingent on funding and enrollment. Does it say anywhere on there it's contingent upon the principal deciding to take your funding and give it to another teacher? Does it say that contingent on funding means that the principal at anytime can move money and you don't have any job?

Of course not. Because if it said that, who would ever sign this contract? Who would agree, I'm going to work for you, but at any time you can fire me because you can give my money to somebody else. That's the gist of their defense.

Finally on the $27,000 issue. Read her tax returns. She said she only worked two days a week. She said the 27 was if you worked full-time. I think she was pretty clear on clarifying that. Look at her tax returns. She only made enough for unemployment and working two days. She testified she makes $500 a week -- a month doing that. Driving to McClellanville to teach those two classes two days a week.

So she is not make 27,000. There is no evidence in the record of that. You'll see what she's making on her tax returns. And you'll see that it's from unemployment, which she testified to.

So she has got significant damages, and she has had significant damages. So I thank you for your serious consideration of the case. I know that you'll work hard to make sure that we have justice.

THE COURT: Counsel, can I ask you to remove your exhibit?

MR. SMITH: Yes, ma'am.

THE COURT: Thank you.

Ladies and gentlemen, we have reached the part of the trial where I will instruct on the law applicable to this case. Ladies and gentlemen, I'm going to read the jury instructions to you. I typically do not send the instructions back. Please pay close attention.

I remind you that during this trial you and I have had certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case. And I also have the duty to rule on the admissibility of the evidence that has been offered.

You are to consider only the evidence before

you. If there was any testimony that was stricken, you may not consider that in your deliberations. You are to consider only the testimony that has been presented from the witness stand, as well as the exhibits that have been made part of the record in this case, as well as the stipulation of counsel.

I have the additional duty to charge you on the law applicable to this case. It is your duty as jurors to accept the law and apply the law as I state it to you now.

If you have any idea as to what the law is or what the law ought to be, and it does not agree with what I tell you now, you must abandon your own ideas because you are sworn to accept the law and apply the law exactly as I state it to you now.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judges of the facts. Remember a trial judge may not make any comment or have any opinion about the facts in this case.

You are the sole judges of the facts in this case. And do not think by anything that I have said or done throughout the progress of this trial, or during the charge on the law, that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case.

The burden of proof in this case is by a preponderance of the evidence. A preponderance of the evidence simply means the greater weight of the evidence. It is evidence which, as a whole, shows that the fact sought to be proved is more likely true than not true.

This can be illustrated by imagining a set of scales. When the case begins, the scales are even. And after all of the evidence has been presented, if the scales remain even, or if they tip slightly in favor of the defendant, the plaintiff has failed to meet the burden of proof and would not be entitled to recover in this case.

If on the other hand the scales tip even slightly in favor of the plaintiff, the plaintiff will have met the burden of proof, and you should return a verdict for the plaintiff. The preponderance of the evidence is not determined by the number of witnesses. It must be determined by the greater weight of all of the evidence.

There are two types of evidence that are generally presented in a trial, direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact such as an eyewitness. It is

evidence which immediately establishes the main fact to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference, and not on personal knowledge or observation.

It is proof that does not actually establish the fact in question, but that asserts or describes something else from which you may either reasonably infer the truth of that fact, or at least reasonably infer an increase in the probability that that fact is true.

For circumstantial evidence to be sufficient to warrant the finding of a fact, the circumstances must lead to that fact with reasonable certainty.

The facts and circumstances should be considered in light of ordinary experience and common sense. The existence of a fact cannot be based on speculation or surmise.

The law makes absolutely no distinction between the weight or value to be given either to direct or circumstantial evidence, nor is a greater degree of

certainty required of circumstantial evidence than that of direct evidence.

Certain testimony has been present to you by a deposition. A deposition is the testimony taken under oath before trial and preserved in writing or some other mechanical means. You are to consider that testimony as if the witness had given it here in court.

Necessarily, you must determine the credibility of the witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to determine which evidence convinces you if it's true.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of that testimony of the same witness.

You may believe the testimony of a witness in its entirety, or reject the testimony of a witness in its entirety. You may consider whether the witness has an interest in the result of the trial; whether the witness is prejudiced toward either the plaintiff or the defendant; the opportunity for the witness to have seen the matters and things about which the witness may

testify; as well as the way the witness acted on the witness stand.

In this case the plaintiff claims that the defendant breach a contract that existed between the parties. In order to recover for a breach of contract, the plaintiff must prove the claim by a preponderance or the greater weight of the evidence.

The parties have stipulated to the existence of a contract which has been presented into evidence as Plaintiff's Exhibit 3, and Defendant's Exhibit 1.

The following information is provided only to inform you of the legal definition of a contract as general information. It is not for your consideration in determining your verdict as to whether the contract was breached.

A contract is an agreement entered into by two or more parties in which each party agrees to perform or not to perform certain acts. It may be shown by words, written or oral, or by conduct.

However, a contract is more than the mere exchange of promises. For the agreement to be considered a contract, the parties must have intended to enter into a contract, and must have breached a mutual understanding of the terms of that contract.

This is sometimes called a meeting of the minds.

The parties must intend to be mutually bound by that agreement.

To make a contract, there must be an offer and an acceptance. An offer is a proposal which is definite and certain in its terms. The offer must be communicated to the other party. The mere intention to do an act is not an offer.

In addition, preliminary negotiations are not offers. An offer may be withdrawn at any time before it is accepted. An offer can only be accept by the person to whom it was made. The acceptance must be communicated to the person who made the offer.

Unless the offer specifically states that the acceptance must be made at a certain time or place, or in a certain way, an offer may be accepted in any way which let's the person making the offer know that the offer is accepted.

An acceptance does not have to be expressed, it may be inferred when the acts or conduct of the party accepting the offer. There must be some expression of the intent to accept the offer, either by words, signing, or some act communicated to the person making the offer, or that person's agent.

In addition, each party to the contract must give some valuable consideration to the other. This

means that there must be something that benefits each party. Consideration may be some right, interest or benefit given to a party. It may be also be the failure to do an act or responsibility which is undertaken by a party.

Consideration may be money, an act, a service, or a promise to do something or not to do something in the future. Mutual promises may also constitute consideration.

Again the parties have stipulated that a valid contract existed. In order to show breach of the contract, plaintiff must also show by a preponderance or greater weight of the evidence that the defendant unjustifiably breached the contract.

The word breach means the failure, without legal excuse, to perform any promise that forms the whole, or a part of the contract. This includes the refusal of a party to recognize the existence of the contract, or the doing of something inconsistent with the existence of the contract.

A party breaches a contract when that party does not perform as agreed under the contract by failing to carry out a term, promise or condition of the contract.

The plaintiff may not recover damages for breach of contract unless the plaintiff shows that she has

performed her part of the contract, or at least was able, willing and ready to perform at the appropriate time.

When the contract is in writing, you must determine the intention of the parties primarily from the contents of the written document itself. The intention of the parties must be determined from the entire agreement, and not from any particular clause or provision.

When the written contract is clear, it's meaning must be determined by the contents of the document alone. If the circumstances warrant, terms which do not contradict the written language of the contract may be implied in order to carry out the intention of the parties.

A party to a contract has a duty to read it and learn its content before signing it. A party cannot claim the misrepresentation in the contents of the contract if the truth could have been discovered by reading the contract, unless the party is ignorant and unwary.

Education, business experience, and intelligence are all considered in determining whether a party may be considered ignorant and unwary so as to excuse a failure to read the contract.

When the language of the contract has more than one meaning, you may consider the circumstances surrounding the meaning of that contract to help you determine the real intention of the parties. However, you may not use the circumstances to give the contract a meaning which is not inherent on its face.

When a term of a contract can be given more than one meaning, you should use the meaning least favorable to the party who prepared the contract.

Finally, the plaintiff must prove by a preponderance or the greater weight of the evidence that the plaintiff suffered damages which were proximately caused by the defendant's breach of the contract. The plaintiff must prove damages by the preponderance or greater weight of the evidence.

This does not mean that the plaintiff must prove damages to a mathematical certainty, or produce evidence of the exact amount of the damages suffered. However, the amount of damages cannot be left to guesswork or speculation.

Instead, the evidence presented by the plaintiff must be enough to allow you to determine the amount of the damages with reasonable certainty and accuracy. Damages for breach of contract are those that may fairly and reasonably be considered to arise naturally

from the breach of contract itself, or those that may reasonably suppose to have been in the minds of the parties at the time the contract was made.

If you decide that the defendant has breached the contract, you must then determine the amount of damages to be awarded the plaintiff. Actual damages are damages to compensate the plaintiff, and put her as closely as possible in the same position she was in before the breach of contract. In other words, actual damages are the actual losses and expenses which the plaintiff has suffered because the defendant breached the contract.

Generally, actual damages are the out-of-pocket costs actually paid by the plaintiff as a result of the breach of contract, and the gain of the costs that would have been realized if the contract had been performed.

Special damages, such as loss of income or profits, may be awarded to the plaintiff if you find that these types of damages were in reasonable contemplation of the party at the time the contract was made. Special damage are not allowed where they are so remote, uncertain or speculative that they cannot be determined with reasonable certainty.

To recover special damages, the plaintiff must

show that special circumstances under which the contract was made, were communicated by the plaintiff to the defendant, or the defendant to the plaintiff. The plaintiff cannot be awarded any special damages if the special circumstances were unknown to the defendant when the contract was made.

The fact that the plaintiff may have received unemployment benefits must not be considered as a factor if you decides the plaintiff is entitled to monetary damages. The plaintiff has the duty to minimize the damages caused by the defendant's breach of contract.

The test is whether the plaintiff has done what an ordinary, prudent person would have done under like circumstances. If the plaintiff has used reasonable care to reduce the losses, the plaintiff may recover the full amount. If the plaintiff has not done so, then you would reduce the damages accordingly.

Ladies and gentlemen, I am now going to go over the verdict form with you. Please remember there is no special or significance to the way I have placed these on the verdict form, it's simply something has to go first on the verdict form.

In the Court of Common Pleas for the Ninth Judicial Circuit, State of South Carolina, County of

Charleston, Cynthia L. McNaughton, plaintiff, versus Charleston Charter School for Math and Science, defendant. Verdict.

And simply question number one: On the cause of action for breach of contract -- which is the sole remaining cause of action. Please do not concern yourself with the other causes of action. The only cause of action for the jury to determine and consider is the cause of action for breach of contract.

Question number one: We the jury find for the defendant, Charleston Charter School for Math and Science. Or on the cause of action for breach of contract, we the jury find for the plaintiff, Cynthia L. McNaughton, in the amount of. There is a line for actual damages, and a line for special damages.

The decision must be the unanimous decision of all 12 of you. After you have reached a unanimous decision, you will sign the verdict form, Madam Foreperson, and date the verdict form. After that you will alert the plaintiff and indicate that you have reached a verdict that all 12 of you have agreed upon.

Ladies and gentlemen, this is the last time that I will say this to you probably. Do not begin your deliberations. Do not discuss this case amongst yourselves. We will be gathering the exhibits to go

back to you, and sending the verdict form back to you.

Madam Alternate, you have completed your service at this time, but I'm going to ask that you remain with us for just a few moments to make sure that the 12 have begun their deliberations. You will be placed in a separate room, but please do not discuss this case or begin any deliberations until you are either released or given further instructions.

Ladies and gentlemen, please go head. I assume lunch will be here shortly. So please take a comfort break and get ready and we will bring the exhibits back to you.

Please rise for the jury. Please take your notebooks with you.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, be seated.

Any objections, corrections as read from the plaintiff?

MS. BLOODGOOD: None from the plaintiff, Your Honor.

THE COURT: From the defendant?

MR. SMITH: No, ma'am.

THE COURT: All right. We will be at east. The verdict form will go back. The exhibits, any concerns about the exhibits? We know what has been admitted and

what has not; is that correct?

MR. SMITH: Yes from the defendant.

MS. BLOODGOOD: Yes, Your Honor.

THE COURT: All right. We are at ease.

I noticed that there are some witnesses. Are the witnesses released, or are they going to wait as well?

MS. BLOODGOOD: She is released.

THE COURT: You are released. Thank you.

Any objection to releasing the alternate, Ms. Bloodgood?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: No objection.

THE COURT: If something were to happen to one of the jurors, you agree to go with less than 12?

MS. BLOODGOOD: Yes.

MR. SMITH: Yes, Your Honor.

THE COURT: And any objection, the first question typically is always may we have a copy of your charge.

Any objection to sending the entire charge back?

MS. BLOODGOOD: I don't, Your Honor.

MR. SMITH: No, ma'am.

THE COURT: All right. So if the note comes back, I will not alert you if it's only, may we have a

copy of your charge.

Any other questions, I will come out and get you.

MS. BLOODGOOD: Can we give you a cell phone number?

THE COURT: If you'll give my clerk your cell phone numbers.

I will anticipate you are going to take your lunch at this time. We are at ease.

(Whereupon, a recess was taken.)

(Whereupon, the jurors enter the courtroom.)

THE COURT: Thank you, please be seated.

Madam Foreperson, if you'll hand the verdict form to the bailiff.

Okay.

THE CLERK: Case No. 2011-CP-10-1528, Cynthia McNaughton, plaintiff, versus Charleston Charter School for Math and Science, defendant.

On the cause of action for breach of contract, we the jury find for the plaintiff, Cynthia L. McNaughton, in the amount of 20,623 actual damages, 74,112 special damages. Signed Foreperson, Rosanna Krekel.

Madam Forelady, ladies and gentlemen, if this is your verdict, please raise your right hand.

THE COURT: Thank you.

Anything further required of the jury?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, this completes your service to this case. I ask that you return to your jury room and I will be there in just a few moments to personally thank you for your service to Charleston County.

Please rise for the jury.

(Whereupon, the jurors exit the courtroom.)

THE COURT: Thank you, be seated.

Outside the presence of the jury, anything further?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: Do we have ten days?

THE COURT: No, sir. You need to address your post-trial motions at this time.

MR. SMITH: I will make my motion now, Your Honor.

May it please the Court, pursuant to Rule 50(B) we would move for judgment notwithstanding the verdict and have it set aside and have it entered according to our directed verdict motion.

We incorporated our directed verdict motion,

would you like to hear it again?

THE COURT: I don't need to hear it again.

MR. SMITH: Okay, thank you so much.

Under Rule 59(A) we move for a motion for new trial, motion to set aside per the 13th juror standard because the damages verdict is unsupported by the evidence, or the evidence can't justify the verdict.

We'd ask for a motion, the Court grant a motion for a new trial, remittitur, because although we can understand that the plaintiff may have had damages of 20,000, the range of damages, with the special damages, are speculative in nature. And there is insufficient evidence in the record to substantiate the damages for special damages.

We also move to set aside the damages award because there is insufficient evidence at the trial to support the damages. They're only speculative. They were simply a couple of statements by the plaintiff. And there is nothing to -- no documentary support. And there is also no expert testimony to support her special damages.

THE COURT: Your response.

MS. BLOODGOOD: Well, Your Honor, I think that we did put forth special damages in excess of the verdict, more than twice what the verdict came back.

So clearly they thought this out.

They looked at the documents because the numbers are specific and I didn't give them specific numbers. They are out two and a half hours. I think that it shows that they took the case seriously and thought about it hard.

THE COURT: All right. And as to attorneys fees at this time, counsel?

MS. BLOODGOOD: Your Honor, I would like to file a petition for attorneys fees. Under that statute I believe I'm responsible for giving you an accounting by the hour of the time I have put in it.

I don't have that yet, but I will have it tomorrow. I'd like to file a petition for attorneys fees for you to review that for reasonableness.

THE COURT: Anything further, Mr. Smith?

MR. SMITH: I just want to make sure we can file an opposition to her attorneys fees. Because under the statute we don't believe she is entitled to them.

THE COURT: All right, here is what I'm going to do, counsel. I'm going to allow -- June 19th at 9:30.

You need to have provided, as soon as possible, your copy of your affidavit of attorneys fees and any supporting case law, and any brief memo to Mr. Smith.

I don't necessarily -- well please provide a

filed copy of your affidavit for attorneys fees, and any memo and I will give you -- let me go ahead and just give you all a time and a date.

I don't want any argument. I will give you until Friday at noon to file your affidavit, any brief and bring them to my chambers. You can leave them in my box. When you file them, bring them up to me.

And then you'll have five days to respond. so that will -- you'll have five calendar days. So you will have until the following Friday to respond. And then that will be on a Tuesday so you all will be prepared.

MS. BLOODGOOD: Your Honor, will that be in Berkeley County or here?

THE COURT: Here. I'm trying to make it as convenient for you as possible.

Anything further before I release the jury?

MS. BLOODGOOD: No, Your Honor.

MR. SMITH: Nothing from the defendant.

THE COURT: All right, thank you. We are at ease.

(Whereupon, the proceedings in this matter before the Court were adjourned.)

* * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record, and of all the proceedings had and evidence introduced in the above captioned case, relative to appeal, in the Circuit Court for South Carolina, on the indicated date.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Anne Bouley Meyer

Anne Bouley Meyer, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OR COMMON PLEAS
2011-CP-10-01528

CYNTHIA McHAUGHTON,

Plaintiff,

V.

CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE,

Defendant.

TRANSCRIPT OF RECORD

June 19, 2012
Charleston, South Carolina

B E F O R E:

THE HONORABLE KRISTI HARRINGTON, JUDGE

A P P E A R A N C E S:

Ms. Nancy Bloodgood, Esquire
Representing the Plaintiff

Mr. Thomas Bailey Smith, Esquire
Representing the Defendant

Anne Bouley Meyer, RPR
Circuit Court Reporter

THE COURT: Thank you for accommodating the Court's schedule. When we set it, I didn't realize we would be in trial. So I appreciate you coming quickly so I can get on with my trial in a timely fashion. So I appreciate that.

Ms. Bloodgood, I will be happy to hear from you. If you could go through the elements that would entitle you to attorneys fees. My first concern is, of course, the classification of this charter school as something that would entitle you under the statute. That's my first concern.

And I think that's a concern that should be addressed because that is first hurdle.

Wouldn't you agree, Mr. Smith?

MR. SMITH: Yes, ma'am.

THE COURT: And I think you had mentioned and talked about that in several aspects and throughout the trial. So I'd like to hear from Ms. Bloodgood only in terms of the attorneys fees.

MS. BLOODGOOD: Okay. Thank you, Your Honor.

And of course the issue is whether or not Section 15-77-300 applies. The part of the statute that would entitle us to attorneys fees that states that in a civil action brought by any party who's contesting state action. So the question is whether

the charter school's action come under state action and I believe they do. And I'm going to go through the statutes for you.

The first one, of course the most important one, is section 59-40-40 which defines a charter school stating it's considered a public school, part of the South Carolina public charter school, or the local school district in which it is located for purposes of state law and the constitution.

The state government is divided into various portions, parts. Under Title 1, the departments of state government are set forth in section 1-30-10. And that section of the law states: There are hereby created within the executive branch of the state government the following departments. And it lists all of the departments. One of them is the Department of Education.

The Department of Education's duties are defined in section 59-1-190 and 59-5-60. Under the general powers of the State Board of Education it adopts policies and rules for the state; approves budgets; prescribes and enforces rules for the examination and certification of teachers; prescribes and enforces courses of study for the public schools; prescribes and enforces textbooks; and cooperates fully with the state

superintendent at all times to the end that the state system of public education may be consistently improved.

A public school is defined as a school operated by publicly elected or appointed school officials in which the program and activities are under the control of these officials and supported by public funds.

The law is clear that many other departments of the state, other than the Department of Education, are subjected to the attorneys fees statute which is 15-77-300. For instance in McDowell versus South Carolina Department of Social Services, attorneys fees were awarded to the plaintiff who prevailed against the Department of Social Services.

The Department of Social Services, it's similar to the Department of Education. It's part of the executive branch of the State.

In McMillan versus South Carolina Department of Agriculture, attorneys fees were awarded under this statute. Department of Agriculture is another department listed similar to the Department of Education as part of the executive branch of the state.

I could go on. But for instance, the Department of Social Services, Department of Parks and Recreation and Tourism, Department of Revenue. All of those are

departments similar to the Department of Education in this case in which attorneys fees have been assessed.

Now a charter school is a public school by definition. I think the easiest way to explain it is they -- and they use this word in the statute, that it's a nontraditional public school. But it is a public school.

And as a public school, it is part of the -- it is sponsored by the local school district, which is part of the Department of Education, and therefore it is part of the state.

It is not Ashley Hall. It is not Porter-Gaud. Further proof of that is that if a school, a charter school is dissolved its assets do not go to the benefit of any private person. That is section 59-40-120.

It becomes the property of the sponsor. The sponsor in this case is the Charleston County School District. The school district is defined in -- by the legislature as a legal entity whose sole purpose is to provide free school education.

So what we have is a public school. The only case that I think, and I can hand it up, I have three copies of it, that really talks where the Supreme Court has dealt with the issue of a charter schools in a context other than whether or not their charter was

valid, is James Academy of Excellence versus Dorchester County School District Two.

And the case is not necessarily on point, but it does have some statements in it where the Supreme Court has acknowledged a type of entity that a charter school is, and has explained --

THE COURT: Do you want to pass that up and hand a copy to Mr. Smith?

MS. BLOODGOOD: Sure. May I approach?

THE COURT: You may.

MS. BLOODGOOD: In this case the issue was that the Dorchester County, as the sponsor, had given preliminary or contingent approval of the charter. And then the charter school didn't live up to its contractual obligations so it was not approved. It did not ever come into existence.

But the court acknowledges, the Supreme Court acknowledges that it's the State Department of Education that has to approve the plans for the building, and give permission to take bids on the work to be done. And that's the facts on page 2 at the bottom.

And also the -- this school got a start-up grant from the State Department of Education to fund the school. Also the State Department of Education

directed the district to close the school.

So it's clear that these charter schools are entities of the state, governed by the state, subject to the state.

Yes, they are nontraditional in terms of being allowed to have someone other than a bureaucrats run them. And I don't use that term in a bad sense. But it's not state public employees who are running them, there are parents who are running them on the board.

But it's the State Board of Education in the final instance who is determining what these boards can and cannot do.

And of course the statute itself, when it creates these nontraditional public schools, requires that they adhere to the same health, safety, civil rights and disability rights requirements as are applied to public schools operating in the same school district.

That they be considered a school district for purposes of tort liability under South Carolina law. And that they be subject to tort or contract liability to the same extent that employees of traditional public schools in the school district are. And this is section 59-40-50.

So, Your Honor, even though they are run a

little bit differently, I think of it like different kinds of roads. You can have highways, you can have single roads, you can have paved, you can have concrete, but they're roads.

And this is a public school. And it has to be run by -- under the auspices of the Department of Education. It has to have a sponsor, which is the Charleston County School District.

Now if I could just address quickly some of the points that Mr. Smith makes in his memo. He states, I guess the premise is that -- he says it doesn't receive money from the state. In fact it is 100 percent funded with taxpayer money.

I don't know if you recall in the trial, but the budget shows that each year they receive $2.6 million from Charleston County that would otherwise go to public schools. They are totally funded by public schools, public money. This is not an Ashley Hall or a Porter-Gaud.

So they do receive money from the state. He says that they don't tax. Well no public school taxes. Charleston County sends out the tax bills. They set -- it's set by the auditor, it's a complicated process. But what the charter school does is they send what they need to Charleston County School District, their

sponsor. When the school district tells the county, we need this much money, when you your get bill you will see a line item for Charleston County and a line item for the City of Charleston, that's where they get their money.

They don't tax personally, but they are part of the system of taxing. And they receive the money from Charleston County School District. So the fact that they themselves don't tax is totally irrelevant. Most state entities do not tax personally.

For those reasons I think it clearly is a state entity under the law. It can't be anything else. It has been created by the legislature. It is a public school, and a public school is part of the state, it's part of the executive branch of the government and therefore it is a state actor.

And when it takes action, it has acted in that capacity and therefore the statute applies.

Your Honor, I won't go through my affidavit unless you have any other specific questions about it. I do want to point out that the law does require, that statute does require findings of facts on various issues which I have addressed in the brief. And so I do think it would take a supplemental order one way or the other.

THE COURT: And tell me, Ms. Bloodgood, what -- how the agency acted without substantial justification.

MS. BLOODGOOD: There is actually a case that says if the jury comes back and awards, and finds in your favor, and I have cited that case in my brief, Your Honor, that is evidence of no substantial justification.

As a matter of law, the jury found that there was a breach of contract. When there is a breach of contract, the state actor has not acted with substantial justification.

Let me see if I can find that cite for you in my brief. I also have the cases for you, if you need them, but it's Heath versus County of Aikin. And I also have another copy of that case.

But that case says, the prevailing party is defined as the party who successfully prosecutes the action, prevails on the main issue, even if not to the extent of the original contention, and the one in whose favor a verdict is rendered.

So on that basis I don't think that they acted with substantial justification because the jury came back and found they did breach the contract.

THE COURT: Mr. Smith, I will be happy to hear from you in response.

MR. SMITH: May it please the Court. I have four points on the issue of State action. The first point is South Carolina code 59-40-50. A moment ago Ms. Bloodgood cited to the Court several things like the charter school gets the protection of the tort claims act, et cetera, et cetera.

But the most important exemption section there is this, and this is the exemption section, 59-40-50(A) says: Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulation applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law and regulations.

So from the get-go 59-40-50 rebuts, as a matter of law, all of the allegations if they're trying to claim a State action occurred as a result of the charter school making a decision to layoff an employee. So 59-40-50 the exemption section we believe closes the matter.

Secondly 59-40-40, referred to by opposing counsel, is the definition section. And a charter school, under 59-40-40(2)(A) is defined like this. It's considered a public school -- we agree it's a public school -- and a part of the school district in

which it is located for purposes of the state law and the state constitution.

That means one thing and one thing only. It's a public school. It's open to the public. We are bound to provide transportation to the students. We can't charge them tuition. It's says nothing more than that. The language is clear, we are a public school. We don't doubt that.

Importantly, if the legislature intended for a charter school to be part of the state, as in a political subdivision, it would have listed that in the definition section, which it doesn't.

Thirdly, I didn't see any affidavits filed by the plaintiff except for the attorneys fees. I saw no affidavits filed regarding any of the allegations she makes factually.

As far as the school is concerned, the third reason it's not state action is under the case of Willis versus Sumter, 308 SC 505 cited in our brief. In that case the construction company, Willis, sued the Sumter Airport Commission, and they claimed attorney fees under the same statute, 15-77-300.

The court indicated that the test is this, whether or not state action occurred. A political subdivision is a division or subdivision of the state

invested in governmental functions. There is absolutely no evidence in this case that the charter school is engaged, or has the ability to engage in governmental functions.

For example, the governmental functions which are peculiar to a government refer to Willis because the Defendant Sumter Airport Commission could not levy taxes, could not raise revenues, could not exercise the power of eminent domain.

The court found that there was no state action. And that the construction company was not entitled to fees, to attorney fees under 15-77-300. Exactly like this case.

Fourth reason that there is no state action is the Duck test. Let's look at the facts, and based upon the affidavit and the testimony of court. Number one, it's a public school, it's not defined anywhere as a state entity of political subdivision of the state.

We have filed the incorporation papers. It's incorporated as a private, nonprofit corporation for a public benefit. It is not incorporated like City of Pickens, or the town of this, or anything else.

We do not answer to any state entity. We put into evidence the full charter as Exhibit 40, I believe, in trial. We don't answer, as a general rule,

to anyone. We govern ourselves. Page 107 of the charter says, we are a self-governing entity.

We stand alone. The state doesn't stand behind us. We don't participate in the insurance reserve fund. If we run out of money, we can't go to the school district. We can't go to anybody. Do we receive money from the school district? Yes, we do on a per-pupil basis. We don't receive money from anybody else.

If a regular school district needs money, they can petition the county or the proper entity to raise raises taxes. We can't do that. We have absolutely no governmental functions at set forth in Willis versus Sumter.

For those four reasons, and based upon sections 59-40-50(A), 59-40-40(2)(A), we would submit that the threshold issue, whether or not the state action occurred, can't be met by the plaintiff.

Next issue is under 15-77-30, the Court may allow the prevailing party to recover attorney fees if the Court finds the agency acted without substantial justification.

I gravely disagree with counsel's test. Under McDowell and under the Heath test, the test for whether or not substantial justification exists is this,

whether or not the defendant's actions were justified to a degree that would satisfy an ordinary person, quote, unquote. And they go on to define that as whether or not there was a reasonable basis in law and in fact.

So let's look at the law side first. In this particular case the teachers for that year had written employment contracts, there was a contingency in there. The contingency was their ongoing employment was contingent upon funding, and the school funds all those positions on a monthly basis.

So as a matter of law when you look at the contract, we believe the clear term says, if the position isn't funded next month, then the contingency arises and you don't have to be employed. Therefore we believe we had a reasonable basis in law.

Let's look at the facts of the case to look at the substantial justification. In this particular matter the teacher --

THE COURT: I remember the facts, thank you.

MR. SMITH: Okay. So we have a reasonable basis in law, as a matter of fact our principal went to a board member who is an attorney, attorney Bea Whitten, and substantiated that the law allowed her to do exactly like she did.

Therefore, we believe that based upon the law and based upon the facts and based upon the charter requirement that the school act in the best interest of student achievement, and because this school focuses on math and science, we believe we have a very substantial justification in laying off a teacher who taught art to help the math students who were terribly far behind in the math, to help them get up to standards.

On the issue of special circumstances. Under the statute 15-77-300, again the Court may allow attorney fees if the Court finds there are no special circumstances that would make the award of attorney fees unjust.

I found on case in all South Carolina law Dunn versus Dunn. It happens to be a family court case. It talks about whether or not issuing money sanctions against a party was unjust.

In that case, the plaintiff was in a deposition. There was some issue between the attorneys. The deposition was vacated for that day. It was suspended pending an order of the court.

There was an order of the court. The attorneys agreed between each other that once the side order from the judge comes in, the deposition can continue. The signed order from the judge didn't come in, therefore

the plaintiff refused to give her deposition based upon legal advice.

In a nutshell, the court found that no sanctions were due against her, and it would be unjust to issue any sanctions because she had a good-faith belief that she didn't have to give the deposition again. In other words, she relied in good-faith on legal advice.

Just like we did in this case. Just like the principal relied upon the good-faith advice of attorney Bea Whitten. Therefore, we think special circumstances exist because there's no affect, because there is reasonable reliance upon an attorney's opinion, we think the award of attorney fees would be unjust in this case.

Thank you.

THE COURT: Thank you.

All right, Ms. Bloodgood, you have one minute.

MS. BLOODGOOD: Okay. 59-40-50(A) is the exception. But (B), three pages more, talks -- and I can hand it up to the Court if you like -- talks about what this charter school must do.

Mr. Smith agrees it's a public school, and evidently takes contention with the fact that the legislature has not set up a code to show that it is part of the education, Department of Education as

clearly as they could have. But it is clearly, if you read the law, it is part of sponsored by the school district, which is part of the Board of Education, which is part of the department, which is part of the executive branch of the state.

This is not about a political subdivision. Willis is totally inappropriate. A political subdivision is a city or a county. It's a municipal corporation. Nobody has ever said a school is a municipal corporations. And I would certainly agree that schools cannot exercise the power of eminent domain, has nothing to do with the case.

The public school is nonprofit. All public schools are nonprofit. I don't think that's a significant issue. But I don't think it's reasonable to breach a contract. And the jury found that they breached the contract.

Now Mr. Smith can argue on appeal why that may be wrong, but when you breach a contract you have not acted with substantial justification. It's wrong. And so -- and the family court case is not on point.

THE COURT: All right, counsel, I'm going to take this matter under advisement. I hope to have my order within ten days.

Thank you, counsel. Again I appreciate you

coming in early to get this matter taken care of and heard.

Is there anything else regarding this case, Ms. Bloodgood?

MS. BLOODGOOD: No, Your Honor.

THE COURT: Mr. Smith?

MR. SMITH: No, Your Honor, thank you.

THE COURT: Thank you.

(Whereupon, the proceedings in this matter before the court were adjourned.)

* * * * *

C E R T I F I C A T E

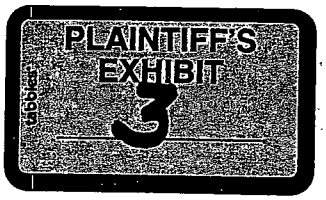
I, the undersigned, ANNE BOULEY MEYER, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record, and of all the proceedings had and evidence introduced in the above captioned case, relative to appeal, in the Circuit Court for South Carolina, on the indicated date.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Anne Bouley Meyer

Anne Bouley Meyer, RPR
Circuit Court Reporter

CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE



EMPLOYMENT AGREEMENT
2010-2011

Cynthia McNaughton agrees to be a full-time teacher at Charleston Charter School for Math and Science for the school year 2010–2011. The salary will be the same as for Charleston County School District teachers for the given years of service and degrees on the teaching certificate; or if the teacher is not certified, as determined by the CCSMS principal.

The requirements of employment include attendance at staff meetings which shall be scheduled before, during, or after the period of school attendance; attendance at all open houses and other school functions; communication with parents through conferences and other means; the timely preparation of reports on students; and other such functions as assigned and spelled out in the Employee Handbook.

Said employee should be familiar with and comply with the general, educational, and personnel policies of the school as amended from time to time. By signing this agreement, the employee agrees to follow school policies.

The 2010-2011 school year will begin for staff on Wednesday, August 11, 2010 (students arrive on the following Wednesday, August 18). The proposed last day of classes for students is Thursday, June 2, 2011. Friday, June 3, 2010 staff will be available one full day after the last instructional school day for curriculum planning and report activity.

This employment agreement is contingent on funding and enrollment as well as the said teacher meeting certification and other requirements to teach designated courses.

I accept the terms of this appointment.

Employee: Cynthia McNaughton Date: 8/5/2010

Principal: Tamara Kirshtein Date: 8/5/2010

Please sign and return both copies to the school principal as soon as possible. A signed copy will be returned to you for your records.

TERMS OF EMPLOYMENT NOTICE
Wage Payment

Employee Name: Cynthia McNaughton
Social Security Number: _____
Address: 1481 Center Street, Mt. Pleasant, SC 29464

In compliance with §41-10-30 of the S.C. Code of Laws, 1976, you are hereby notified of wage payment terms:

1. **Normal Work Hours:** As described by your Supervisor:
   Full-time ✓ **Part-time** _____

2. **Rate of Pay:** Hourly $_____/hour Salary $_____ x 22 times a year #34,040 yearly

3. **Place of Payment:** Charleston Charter School for Math and Science, Inc.,
   1002 King Street, Charleston, SC 29403

4. **Day of Payment:** 15 and 30 th of Month **Time of Payment:** 4:30 pm

5. **Deductions:** (Excluding those mandated by State and Federal law) to be made from wages:

   Retirement _____
   Health/Dental/Life Insurance X
   Garnishment _____
   Deferred Compensation _____
   Other _____

This Wage Payment Notice is personal and confidential. Discussion of personal Employment Notices with other members of the Company is prohibited and disclosure may lead to immediate termination.

Any debts owed to the School, such as wage overpayment, reimbursement for damages to School property through employee negligence, reimbursement for abuse of School credit cards or keys or failure to return School Property may be deducted from wages at the discretion of the School Board.

Charleston Charter School for Math and Science, Inc. (CCSMS) wants your job experience to be rewarding and enjoyable.

CCSMS ENDORSES THE CONCEPT OF EMPLOYMENT AT-WILL. NOTHING IN THIS TERMS OF EMPLOYMENT NOTICE CONSTITUTES AN OFFER OF EMPLOYMENT, A CONTRACT OF EMPLOYMENT, OR IS MEANT TO ALTER THE EMPLOYMENT AT-WILL TERMS IN ANY WAY. I UNDERSTAND THAT THERE IS NO EMPLOYMENT CONTRACT FOR A DEFINITE DURATION OF TIME.

Cynthia McNaughton Date 8/5/2010
Employee Signature

_____ Title Principal Date 8-6-10
Employer Signature

R-406

CONFIRMATION OF EMPLOYMENT
Program of Alternative Certification for Educators (PACE)

DIVISION OF EDUCATOR QUALITY AND LEADERSHIP
OFFICE OF EDUCATOR CERTIFICATION
LANDMARK II OFFICE BUILDING
3700 FOREST DRIVE, SUITE 500
COLUMBIA, SOUTH CAROLINA 29204

PLEASE PRINT

Academic Year (i.e. 2010–11)	Date of Hire for Current Academic Year (mm/dd/yy)
2010 - 2011	08/05/10

PACE Participant Name (Last, First, Middle, Maiden)	PACE Participant Social Security Number
McNaughton, Cynthia	301-58-6589

Employing District	Employing School
Charleston County School District	Charleston Charter School for Math and Science

Certification Area PACE Participant will be employee	Please check the grade level the PACE participant will be employed
Art	☐ K–12 ☒ Middle Level ☒ Secondary

As a participant in PACE, I understand that

- I have an earned bachelor's degree or above from a regionally accredited college with a major in a South Carolina certification area.
- I have a passing score on the appropriate Praxis II subject area examination(s).
- I have verified two years full time work experience or an earned Master's degree.
- I have a complete application on file with the State Department of Education (including application form, fee, official transcripts, official Praxis report, verification of two years full time work experience, and an all-clear FBI report).
- I am accepting employment (minimum .5 FTE) as the Teacher of Record in the content area and grade level in which I am eligible for PACE.
- I must successfully complete the next available ten day pre-service training (see district official for dates). If I do not successfully complete the pre-service training, I will not qualify for a certificate.
- I must complete the ten day in-service seminar following my first academic year of teaching.
- I must complete all of the training seminars throughout the first two years of teaching.
- I must complete nine hours of graduate credit during my three years of participation in PACE as outlined in the PACE Handbook.
- I must successfully complete the Assisting, Developing, and Evaluating Professional Teaching (ADEPT) evaluation process.
- I must submit a passing score on the Principles of Learning and Teaching (PLT) examination.
- I must maintain employment as Teacher of Record in my current PACE certification and grade level area at a minimum of a .5 FTE for three consecutive years in a South Carolina public school.
- I understand that the first year I receive a certificate is considered my first academic year of PACE participation. I also understand I must complete all PACE program requirements (training, coursework, PLT, and successful teaching in the same content and grade-span) within three consecutive academic years.

PACE Participant Signature	Date
Cynthia McNaughton	8/5/2010

South Carolina Public School District

As a South Carolina public school district employing a PACE participant, we are aware of the various requirements for progression in PACE and will provide the necessary assistance to the teacher to meet the program requirements and advance to the professional certification. This assistance shall correlate with the guidelines for assisting, developing, and evaluating teachers under the state's ADEPT evaluation system. The participant listed above is employed in a full-time or half-time teaching position compatible to his or her PACE Statement of Eligibility. We will coordinate with the SDE to assure that this individual completes all program requirements.

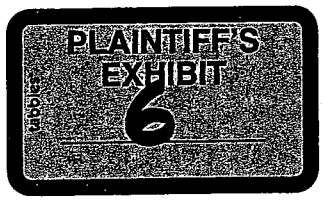
000376

Principal of Employing School Name (printed)	
Tamara Kirshtein	
Principal of Employing School Signature	Date
	8-5-10

South Carolina
Department of Education

Jim Rex
Superintendent of Education

Together, we can.



October 25, 2010

Gail Tolbert
Charleston Charter School for Math and Science
1002 King Street
Charleston, South Carolina 29403

Dear Ms. Tolbert:

We have received a Confirmation of Employment for Cynthia McNaughton (***-*8-6589).

All application materials are on file for Cynthia McNaughton. A pre-registration form and information regarding the winter training are being sent to the participant. The pre-registration form must be received in our office by December 6, 2010 to finalize enrollment.

Please remember that PACE participants must successfully complete the winter pre-service institute prior to receiving their first certificate. Please allow approximately four weeks following the conclusion of the pre-service training for certificates to be issued. Remember that PACE participants must continue to meet training program requirements to maintain their certification.

Thank you for utilizing PACE in your school district.

Sincerely,

Sharetta Dozier
Certification Analyst

cc: Cynthia Lee McNaughton

Division of Educator Quality and Leadership, Landmark II Office Building • 3700 Forest Drive, Suite 500 • Columbia, SC 29204
Phone 803.734.9929 *Fax* 803.734.2873 *Web* www.scteachers.org

Charleston > excellence is our standard
County SCHOOL DISTRICT

December 2, 2010

Ms. Tamara Kirshtein
Principal

Charleston Charter School for Math and Science

1002 King Street
Charleston, South Carolina 29403
Tel. (843) 720-3085
Fax (843) 720-3196

Dear Cynthia,

Thank you for meeting with Gail Tolbert and me yesterday, December 1, 2010. As we discussed, I have to make a very hard decision based on the needs of our children here at the Charleston Charter School for Math and Science. Because the Pre-Algebra and Honors Algebra students took a benchmark test and did not do as well as I would have liked and we are a math and science school, this concerns me greatly.

Therefore, as I explained to you, the students affected are going to have to double up their math classes immediately so they can do well on their end-of-course tests in the spring. In order to accomplish this, many of our students will have to be taken out of their art elective class so they can be placed into a PASS Prep computer-based class.

I hate to make this change so late into the school year, but I have to make this tough choice for the success of our children and to show their parents that we are very serious about their children's education and success at our school.

In addition to the PASS Prep class, students will be offered math tutoring before school and be given a math packet to work on over the holiday break. A new math teacher has been hired and will be reporting to work on December 13th.

I wish we could afford to keep you as a teacher, which I explained in our conference; but unfortunately, we do not have the funding to keep you and hire the additional math teacher for our students. I am very happy that you have decided to remain on staff until December 17th to help with the transition of the new schedule for our children. Because of that, you will be paid through December 30th.

Either Gail Tolbert or I will be happy to write you a letter of reference, as mentioned. Gail has also offered to check with neighboring school districts to see if they have an art position available. In addition, Gail told you that you will still be eligible for PACE next year, as there is no need for you to attend the PACE Institute later this month. COBRA is also an option for your continued insurance. Please call Kathy Smalls in the CCSD Benefits Office, 75 Calhoun Street, at 937- 6359 for more information and to find out the process for applying for unemployment benefits.

Cynthia, we appreciate the time you have given our students at CCSMS. You have been a good employee, and we have enjoyed having you here. This has not been an easy decision and I hate to do it, but I have to do everything I can to bring our children to where they should be in math. Should you have additional questions or concerns, I will be happy to address them with you.

Sincerely,

Tamara Kirshtein
Principal

C: Personnel File

Ms. Tamara Kirshtein
Principal

Charleston Charter School for Math and Science

1002 King Street
Charleston, South Carolina 29403
Tel. (843) 720-3085
Fax (843) 720-3196

Charleston Math & Science RipTide

1002 King Street Charleston, SC 29403

December 20, 2010

To: Whom it may concern

I am writing this letter of reference for Cynthia McNaughton who has been our Art teacher this past fall semester.

Our school serves 6th through 11th grades currently and Cynthia has had the opportunity to teach at each level. She has taught all middle school grades as well as high school Art and Yearbook.

Cynthia's strengths are in designing lessons that are cross-curricular. For example, if a science teacher here is teaching astronomy, she might pull in Van Gogh's Starry Night. She works well with many mediums, in her main Art classes she was able to focus on the seven basic elements of art through traditional and non-traditional projects. In high school and especially, Yearbook her strength in graphic arts and showing children how to use the computer to do just about anything with photographs or drawings shone through.

It was very upsetting to lose her from my faculty as she is an all around good person and team player. I knew I could always count on her for anything from designing an ad for our school to starting up an Art club.

Any school that is able to benefit from Cynthia's compassion and talent will be lucky. If you need to contact me regarding this reference, please use e-mail as that is the best form of communication for me.

Thank you,

Tamara Kirshtein
Principal
tkirshtein@charlestonmathscience.org

PLAINTIFF'S EXHIBIT 11

000318

R-411

Charleston Charter School for Math & Science
1002 King Street
Charleston, SC 29403

CYNTHIA L MCNAUGHTON
1481 CENTER ST EXT 201
MT PLEASANT, SC 29464

Direct Deposit

Employee Pay Stub Check number: 31276 Pay Period: 12/16/2010 - 12/31/2010 Pay Date: 12/31/2010

Employee	Status (Fed/State)	Allowances/Extra
CYNTHIA L MCNAUGHTON, 1481 CENTER ST EXT 201, MT PLEASANT, SC 29464	Single/Withhold	Fed-2/0/SC-2/0

Earnings and Hours	Qty	Rate	Current	YTD Amount
Art Teacher-EL			1,547.27	15,472.70

Deductions From Gross	Current	YTD Amount
Employee Health	-46.73	-467.30
Employee State Retirement	-100.57	-1,005.70
Employee Dental	-11.02	-66.12
Employee Vision	-3.88	-23.28
Back Health		-60.32
	-162.20	-1,622.72

Taxes	Current	YTD Amount
Federal Withholding	-115.00	-1,150.00
Social Security Employee	-92.11	-921.05
Medicare Employee	-21.54	-215.41
SC - Withholding	-63.73	-636.16
	-292.38	-2,922.62
Net Pay	**1,092.69**	**10,927.36**

Direct Deposit	Amoun
Checking - *********9899	1,092.6

Non-taxable Company Items	Current	YTD Amou
Employer Health - EL	130.45	1,304.5
Employer Dental - EL	5.85	58.5
Employer State Retirement-EL-2	205.63	2,056.3

Memo

Direct Deposit

R-412

Charleston Charter School for Math & Science
Board of Directors Meeting
November 15, 2010

The regularly scheduled meeting of the CCSMS Board of Directors was held on November 15, 2010 in the Café. Caryn Vedane, Interim Board Chair, called the meeting to order at 6:05.

Members present were: Caryn Vedane, Tammy Kirshtein, Bea Whitten, Patti Pyatt, Joe Green, Michael Allen, Kelly Carroll, Chris King, Reverend Dungee, and Arnie McClure. Absent were Leroy Connors, Brandy Gibson, and Mary Allen. Visitors were Bill Moser of Kelly/Moser Consulting and Kyle Vedane.

First Order of Business: Meeting called to order. Joe Green moved to approve Oct.12 meeting minutes as presented. Second. No discussion. Motion carries unanimously.

Second Order of Business: Public Comment

a) Parent – still having problems with Edline Login.
b) Summer reading assignments, need to be addressed. Need for better communication of assignments and over the summer updates.
c) Gifted and Talented program.
d) Kelly Carroll – Yankee candle raised over $3,000, candles coming very soon. Also, there is a lack of teacher participation in PTO membership. Principle Kirshtein will help recruit.
e) Arnie McClure– Basketball tournament Nov. 20 and 21.

Third Order of Business: Election of Officers

a) Chair – Joe Green moved that Caryn Vedane serve as Board Chair for the 2010–2011 Board term. Second. No discussion. Motion carries unanimously.
b) Vice Chair – Patti Pyatt moves that Joe Green serve as Vice Chair for the 2010–2011 Board term. Second. Joe Green respectfully declines the nomination. Patti Pyatt moves that Leroy Connors serve as Board chair for the 2010–2011 Board term. Second. Motion is tabled until December meeting when Leroy Connors can be present.
c) Treasurer – Patti Pyatt moves that Bea Whitten serve as Treasurer for the 2010–2011 Board term. Second. No discussion. Motion carries unanimously.
d) Secretary – Arnie McClure moves that Michael Allen serve as Secretary for the 2010–2011 Board term. Second. No discussion. Motion carries unanimously.

Fourth Order of Business: Reports

Financial Report:

Bill Moser of Kelly/Moser Consulting presented financial statements from October and November 2010 and pointed out changes from the September financial report. 12% reduction in state funding is expected in 2012. CCSMS is in a solid financial position at this time.

Treasurer's Report:
Arnie McClure moved to approve the October and November financial statements as presented. Second. No discussion. Motion carries unanimously. No additional Treasurer's Report.

Principal's Report: (as attached)
Current enrollment is 364; we budgeted for 375. The next open house is December 11; Good volunteer, parent, and student involvement have made these events successful. Considering staff changes: Vice principal – Jason Allen; an additional special education teacher to stay proactive for student classifications; a middle school social studies teacher to replace Jason Allen. CCSMS is officially a candidate for SACS accreditation. Leadership team is meeting November 16. There are seven (7) standards; first standard will be addressed by Tammy Kirshtein, Jason Allen, and Ginger Moore. A timeline is being established. Will need community and parents support. SACS accreditation process will benefit Charter renewal preparations.

Academic Report – Patti Pyatt (as attached)

Governance Committee Report – Joe Green for Leroy Connors.
New parent serving on committee; no additional report.

Facilities Committee – Arnie McClure (as attached)

IT Committee – Kyle Vedane (as attached)
Kyle Vedane presents proposals for the website redesign. The IT Committee suggests hosting the site offsite. The committee will schedule a date for December to have the three remaining firms give presentation and will secure references for each company.

PTO/Booster – Report given under Public Comment section.

Fifth Order of Business: Executive Session
Patti Pyatt moved at 7:25 to enter Executive Session to discuss a contract matter. Second. No discussion. Motion carries unanimously. Patti Pyatt moved at 7:50 to end Executive Session. Second. No discussion. Motion carries unanimously. Bea Whitten moves to amend Jason Allen's contract from 10 months to 11 months and to authorize Tammy Kirshtein to add necessary support staff as a total budget change of $72,000. Second. No discussion. Motion carries unanimously.

Sixth Order of Business: Open Forum
Another option needs to be considered for the scoreboard such as a projection system.

Meeting adjourned 8:15.

Minutes prepared by: Michael Allen, Board Secretary

Charleston Charter School for Math & Science
Board of Directors Meeting
December 20, 2010

The regularly scheduled meeting of the CCSMS Board of Directors was held on December 20, 2010, in the Café. Caryn Vedane, Board Chair, called the meeting to order at 6:05 and lead the group in the Pledge of Allegiance.

Members present were: Caryn Vedane, Tammy Kirshtein, Joe Green, Michael Allen, Leroy Connors, Joe Green, Reverend Dungee, and Arnie McClure. Absent were Bea Whitten, Patti Pyatt, Kelly Carroll, Brandy Gibson, Chris King, Leroy Connors, and Mary Allen. Visitors were Kyle Vedane and Kyle Ellison.

First Order of Business: Joe Green read the CCSMS mission statement.

Second Order of Business: Public Comment
No public comments.

Third Order of Business: Announcements

- Please send committee meeting reports to the Board prior to the scheduled meeting.
- Leroy Connors accepted Vice Chair nomination.
- An updated copy of the Bylaws will be provided in your Board binder. Bylaws stipulate that we are to audio record meeting records.
- The Board application for the vacant community seat was attached to the December 17 e-blast. Please contact any recommended community nominee who believes in the mission of CCSMS.
- Preserving the CCSMS auditorium is o the CCSD Board agenda for January 10. Please plan on attending to show your support.
- The Discipline Committee, chaired by Joe Green, will begin meeting monthly to explore options to expulsions.

Third Order of Business: Minutes
The November minutes will be presented for approval at the January 2011 meeting.

Fourth Order of Business: Reports
Financial Report: Tammy Kirshtein for Bill Moser

- Tammy Kirshtein presented financial statements from November and December 2010 and pointed out changes from the previous financial report.
- Forty-five (45) da[illegible]unt is [illegible] Tammy would like to get the count up to 375 students.
- Our per-pupil am[illegible]t has b[illegible] reduced to $5,998; CCSMS budgeted $5,668, so the reduction does no[illegible]fect o[illegible]ottom line.

Treasurer's Report – Tammy Kirstein for Bea Whitten

- Leroy Connors moved to approve the Financial Report as presented. Second. No discussion. Motion carries unanimously.
- A reimbursement form and associated procedures would be helpful. Chris King will email the form used by teachers.

Principal's Report: (as attached)

- More than 100 sixth grade applications have been received for the 2011-2012 school year.
- Teachers have been instructed to upload grades weekly to Easy Grade Pro.
- The new Algebra teacher is Tammy Black.

Academic Report – No report.

Governance Committee Report – Leroy Connors

- All committees need to distribute meeting dates for the year. Provide the dates to Jason Allen.
- SACS accreditation– Board members need to be involved.
- Governance Committee is currently developing a principal's evaluation form and procedure to be implemented for next year and moving forward. The principal should be part of the development of the evaluation. Suggestions were given by Board members about how to reduce the wording. It was noted that the HR administrator should be included because an evaluation process is not in place for that position.

Facilities Committee – Arnie McClure (as attached)

IT Committee – Kyle Vedane

- IT problems regarding day-to-day operations remain problematic. The current Integral contract provides for 10 hours of monthly support, which will be put to use.
- Network connectivity is a problem with the 10 computers in the media center.
- Complete system inventory will begin immediately.
- The next IT Committee meeting is January 11, and the committee will be finalizing its decision and recommendation on the web site redesign.

PTO/Booster – No report.

Fifth Order of Business: Executive Session

There was no Executive Session.

Sixth Order of Business: Open Forum

- Michael Allen will chair the newly formed Safety Committee.
- Regular Board member attendance at athletic events is encouraged.

Meeting adjourned 8:05.

Minutes prepared by: Michael Allen, Board Secretary

Charleston Charter School for Math & Science
Board of Directors Meeting
January 18, 2011

The regularly scheduled meeting of the CCSMS Board of Directors was held on January 18, 2011, in the Café. Caryn Vedane, Board Chair, called the meeting to order at 6:05 and lead the group in the Pledge of Allegiance.

Members present were: Caryn Vedane, Tammy Kirshtein, Joe Green, Michael Allen, Leroy Connors, Reverend Dungee, Arnie McClure, Bea Whitten, Patti Pyatt, and Mary Allen.

Visitors: Bill Moser of Kelly-Moser Consulting; Kyle Vedane; Justin Kiddy of McCay, Kiddy Associates.

Absent members: Chris King, Kelly Carroll, and Brandy Gibson.

First Order of Business: Patti Pyatt read the CCSMS mission statement.

Second Order of Business: Public Comment
No public comments.

Third Order of Business: Announcements

- Caryn recognized Bea and Joe for their role in creating a radio ad for WNJI, 106.9, to reach out to the community about our school.
- Caryn circulated a card to be signed by Board members and sent to Karen Graham-Battle, who is out on medical leave.
- Act 189 is scheduled to be voted on by the SC Supreme Court on January 19, 2011.
- CCSMS auditorium and renovations are on the Jan. 24 CCSD Board meeting agenda.
- Ms. Jamie Robinson is our newest elected Board member. Congratulations and welcome, Jamie!
- House Bill H-3241, pro-charter legislation, is being discussed in Columbia. If it passes in its current form, charter schools will be required to pay a 2% admin fee to their sponsoring districts. The cost to CCSMS would be $53,549 if passed. Let your voice be heard about this!
- The next regularly scheduled Board meeting is February 21, a school holiday. The meeting date will be changed to February 22 in observance of President's Day.

Third Order of Business: Minutes
Patti moves to approve the November and December 2010 minutes as presented. Second. No discussion. Motion carries unanimously.

Fourth Order of Business: McKay, Kiddy & Associates

- Justin Kiddy of McKay, Kiddy & Associates presented audit findings for 2009–2010 and distributed a detailed handout of the audit to each Board member.
- Our second year shows solid improvement in CCSMS accounting processes; the school is following best practices, and past performance is a good indicator of future success.
- Bill Moser noted that we do not need a full-time CPA on staff but that we need to have the resource available when we need one.
- Overall audit grade: A-.

Fifth Order of Business: Reports

Financial Report – Bill Moser

Bill Moser presented the financial statement from December 2010 and pointed out changes from the previous financial report.

Treasurer's Report – Bea Whitten

- Bea moved to rehire McKay-Kiddy for the 2010–2011 school year audit. Second. Discussion ensued regarding the anticipated cost. Motion carries unanimously.
- Bea moved to approve the December Financial Report as presented. Second. No discussion. Motion carries unanimously.

Principal's Report – Tammy Kirshtein

- An additional Special Education teacher is needed to meet the needs of CCSMS students.
- No makeup date has been set for the "snow" day; delayed opening doesn't need to be made up.
- Family and Faculty night will be January 26, 2011, at 6:00; report cards will be distributed at that time.
- The CCSMS lottery will be held January 22, 2011 from 11-2 in the Café; CCSD School Board members Chris Frasier, Mary Ann Taylor, and Elizabeth Kandrac will be present and participate in the process.

Academic Report – Patti Pyatt as attached.

Governance Committee Report – Leroy Connors

- The board opening election went very well.
- SACS accreditation is a critical focus for the school and Board members input is required. The Governance Committee recommends a Board work session be held prior to the next regularly scheduled Board meeting to provide the necessary SACS accreditation information.

Facilities Committee – Arnie McClure

- Arnie , Caryn, Tammy, and Reverend Dungee met with Dr. McGinle and her members regarding the Rivers building.

- Because Board members raised many important questions and because the Facilities Committee has not reviewed the latest proposal, Caryn suggested having a called meeting to discuss the proposal and consider alternatives.
- The called Board meeting will be held February 3 at 6:00 in the Café.

IT Committee – Kyle Vedane

- The committee focus is on building the necessary technical foundation for the school.
- Kathryn Pedings is the onsite contact for CCSMS.
- The committee suggests re-engaging the companies presented in previous meeting to help in the redesign of the website.
- Bea emphasized the importance of having a website professionally prepared.
- $11,000 in technical support hours is available to help complete the task.
- The media center needs to be updated.

PTO/Booster – No report.

Sixth Order of Business: Executive Session

Leroy moves at 8:15 to go into Executive Session to discuss a contract matter. Second. No discussion. Motion carries unanimously.

Patti moves at 8:45 to exit Executive Session. Second. No discussion. Motion carries unanimously.

Patti moves to amend Katie McGormley's contract by $1,368 effective with the 2010–2011 school year. Second. No discussion. Motion carries unanimously.

No further business.

Meeting adjourned 8:55.

Minutes prepared by: Michael Allen, Board Secretary

Charleston Charter School for Math & Science
Board of Directors Meeting
March 22, 2011

The regularly scheduled meeting of the CCSMS Board of Directors was held on March 22, 2011, in the Teacher's lounge. Caryn Vedane, Board Chair, called the meeting to order at 6:02 and lead the group in the Pledge of Allegiance.

Members present were: Caryn Vedane, Tammy Kirshtein, Joe Green, Michael Allen, Leroy Connors, Reverend Dungee, Arnie McClure, Bea Whitten, Patti Pyatt, Jamie Robinson, Chris King, Brandy Gibson.

Visitors: Kyle Vedane, Tracy Moser, Ginny Provost

Absent members: Mary Allen, Kelly Carroll.

First Order of Business: Joe Green read the CCSMS mission statement.

Second Order of Business: Public Comment
None.

Third Order of Business: Announcements

- Reminder: The next board meeting will be held on April 11 at 6pm.
- Caryn presented Board members with the revised Board manual. It is designed to be a Board record and leadership reference.
- March 28, 2011 was an important night for charter schools. Orange Grove Elementary received its 10-year charter renewal; CCSMS's own Kathryn Pedings was recognized as educator of the year.
- CCSMS has cause to celebrate – school has met AYP for the third year in a row, which is a powerful tribute to our outstanding faculty.

Fourth Order of Business: Minutes
Reverend Dungee moves to approve the February minutes as presented. Second. No discussion. Motion carries unanimously.

Fifth Order of Business: Reports
Financial Report – Tracy Moser (as attached)
Tracy presented financial statements from February 2011 and pointed out changes from the previous finance report.

R-420

Treasurer's Report – Bea Whitten

- Bea moved to approve the February Financial Report as presented. Second. No discussion. Motion carries unanimously.
- The anticipated cost to defend current law suits is $20,000. Bea moves to move $10,000 from the Instruction Supplies line item to the Legal Services line time to defend current law suits. Second. Discussion continued regarding the possibility of a settlement. It was noted that line item Administrative Staff Resources had a large surplus. Bea pointed out that the additional $10,000 could be included in the Legal Services line item in the 2011–2012 budget. Tammy moved to amend the motion to move the $10,000 from Administrative Staff Resources to Legal Services. Second. Discussion continued that obligations for that line item have been met. Amendment carries unanimously. The amended motion carries unanimously.

Principal's Report – Tammy Kirshtein

- Changes are being made to the teacher contract process.
- Tammy commended faculty and staff for meeting AYP for the third year in a row.
- Jason Allen and Ginger Moore are attending Power Scheduler training.

IT Committee Report – Kyle Vedane (as attached)

- School World has more power than Google: templates are more robust. It is a sound intermediate solution.
- Discussion continued regarding the price range for a network administrator and what price points would be available if the position were filled through a temp agency.

Chair Report – Caryn Vedane

- Caryn presented information on the Linear Bike Path beautification efforts, a pet project of CCSD Board Chair Chris Frasier, and the April 9 clean-up initiative.
- CCSMS Marketing Committee of Ginny Provost and Chris Hitopolous has developed an internal and external marketing plan and has identified tasks for each. The current initiatives include a "college fair," to assemble scholarship information for the website, and to get CCSMS on the radar of academic recruiters.
- Michael Allen is serving as the Board community connection representative and is working with local business members to develop fundraising initiatives and community partnerships. The current initiative is a technology grant for 3 years to hire a technology person until the CCSMS budget can accommodate the position. The technology strand is essential to meeting the obligations of our charter.

Academic Report – Patti Pyatt (as attached)

- On behalf of the teachers, Patti asked Tammy to purchase the "Three Cups of Tea" book for employees. Tammy agreed.
- Patti will get an order form to Tammy.
- Tammy is considering a 4x4 schedule for high school students.

Governance Committee Report – Leroy Connors

- Evaluation timeline is in place for 2011-2012 school year and will be presented at the April Board meeting.
- An abridged evaluation will be used to evaluate Tammy this year.
- Faculty and staff will be asked to evaluate Tammy's day-to-day performance.

Facilities Committee – Arnie McClure (as attached)

PTO/Booster – Brandy Gibson

- In 2009-2010 school year, PTO paid $3,000 for a school-wide calling system; it is never used and should be.
- The Silent Auction proceeds were net $7,200 net and will be split between the PTO and Booster Club. Ticket sales increased from 24 tickets in 2010 to 153 tickets in 2011. Well done, Auction Committee!!!

Seventh Order of Business: Executive Session

None.

No further business.
Meeting adjourned 7:39
Minutes prepared by: Michael Allen, Board Secretary

2011-1528

CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE

EMPLOYMENT AGREEMENT
2010-2011

Cynthia McNaughton agrees to be a full-time teacher at Charleston Charter School for Math and Science for the school year 2010–2011. The salary will be the same as for Charleston County School District teachers for the given years of service and degrees on the teaching certificate; or if the teacher is not certified, as determined by the CCSMS principal.

The requirements of employment include attendance at staff meetings which shall be scheduled before, during, or after the period of school attendance; attendance at all open houses and other school functions; communication with parents through conferences and other means; the timely preparation of reports on students; and other such functions as assigned and spelled out in the Employee Handbook.

Said employee should be familiar with and comply with the general, educational, and personnel policies of the school as amended from time to time. By signing this agreement, the employee agrees to follow school policies.

The 2010-2011 school year will begin for staff on Wednesday, August 11, 2010 (students arrive on the following Wednesday, August 18). The proposed last day of classes for students is Thursday, June 2, 2011. Friday, June 3, 2010 staff will be available one full day after the last instructional school day for curriculum planning and report activity.

This employment agreement is contingent on funding and enrollment as well as the said teacher meeting certification and other requirements to teach designated courses.

I accept the terms of this appointment.

Employee: Cynthia McNaughton Date: 8/5/2010

Principal: Tamara Kirchberg Date: 8/5/2010

Please sign and return both copies to the school principal as soon as possible. A signed copy will be returned to you for your records.

Exhibit A

DEFENDANT'S EXHIBIT 1

R-423

Charleston > excellence is our standard
County SCHOOL DISTRICT

December 2, 2010

Ms. Tamara Kirshtein
Principal

Charleston Charter School for Math and Science

1002 King Street
Charleston, South Carolina 29403
Tel. (843) 720-3085
Fax (843) 720-3196

Dear Cynthia,

Thank you for meeting with Gail Tolbert and me yesterday, December 1, 2010. As we discussed, I have to make a very hard decision based on the needs of our children here at the Charleston Charter School for Math and Science. Because the Pre-Algebra and Honors Algebra students took a benchmark test and did not do as well as I would have liked and we are a math and science school, this concerns me greatly.

Therefore, as I explained to you, the students affected are going to have to double up their math classes immediately so they can do well on their end-of-course tests in the spring. In order to accomplish this, many of our students will have to be taken out of their art elective class so they can be placed into a PASS Prep computer-based class.

I hate to make this change so late into the school year, but I have to make this tough choice for the success of our children and to show their parents that we are very serious about their children's education and success at our school.

In addition to the PASS Prep class, students will be offered math tutoring before school and be given a math packet to work on over the holiday break. A new math teacher has been hired and will be reporting to work on December 13th.

I wish we could afford to keep you as a teacher, which I explained in our conference; but unfortunately, we do not have the funding to keep you and hire the additional math teacher for our students. I am very happy that you have decided to remain on staff until December 17th to help with the transition of the new schedule for our children. Because of that, you will be paid through December 30th.

Either Gail Tolbert or I will be happy to write you a letter of reference, as mentioned. Gail has also offered to check with neighboring school districts to see if they have an art position available. In addition, Gail told you that you will still be eligible for PACE next year, as there is no need for you to attend the PACE Institute later this month. COBRA is also an option for your continued insurance. Please call Kathy Smalls in the CCSD Benefits Office, 75 Calhoun Street, at 937- 6359 for more information and to find out the process for applying for unemployment benefits.

DEFENDANT'S EXHIBIT 3

000366

www.charlestoncharterformathandscience.org

R-424

Cynthia, we appreciate the time you have given our students at CCSMS. You have been a good employee, and we have enjoyed having you here. This has not been an easy decision and I hate to do it, but I have to do everything I can to bring our children to where they should be in math. Should you have additional questions or concerns, I will be happy to address them with you.

Sincerely,

Tamara Kirshtein
Principal

C: Personnel File

Ms. Tamara Kirshtein
Principal

harleston Charter School for Math and Science

1002 King Street
Charleston, South Carolina 29403
Tel. (843) 720-3085
Fax (843) 720-3196

January 21, 2011

Caryn Vedane, Joseph Green,
Bea Whitten, Michael Allen,
Leroy Connors, Patti Pyatt,
Arnie McClure, and Alma Dungee

c/o Charleston Charter School for Math and Science
1002 King Street
Charleston, S.C. 29403

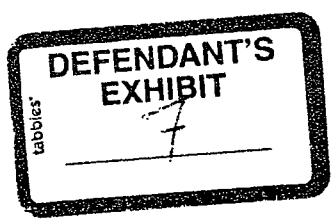
Dear Board Members:

Please accept this letter as a supplement to my grievance letter dated 1-18-2011. I received the attached letter (Exhibit H) from Ms. Kirshtein. There is no proposed resolution in the letter as required in the grievance process so I am not acknowledging the letter as such. Please note that Ms. Kirshtein 1) admits that I have a contract, 2) indicates I was "laid off" due to changing program needs, and 3) that she has switched funds. My contract says nothing at all about me being terminated if my principal decides to "switch" funding. My contract states my employment is contingent on funding. Ms. Kirshtein admits the funding is still in place; she has just "switched" it. This is the first I've heard of a "lay off" so I would like a copy of the School's lay off policy as there is none in the Handbook. I assume the Board would have to have a lay off policy and vote on a lay off before it could happen. Did that occur and who else was laid off? Please include the new "lay off" issue in the scope of any investigation the School's Personnel Committee makes when it reviews my grievance appeal.

Sincerely,

Cynthia McNaughton

cc: John Emerson



R-426

Charleston Charter School for Math and Science

November 2010 Budget Report

	FND	REVENUE	Revenues	Budget	MTD	YTD	Remaining	%
1	100	1520	Interest	$1,400.00	$200.99	$1,056.23	$343.77	24.56%
2	100	1920	Contributions & Donations	$2,000.00	$0.00	$500.00	$1,500.00	75.00%
3	100	1999	Fundraising	$0.00	$0.00	$0.00	$0.00	0.00%
4	100	3313	Education Finance Act	$2,413,307.48	$218,480.14	$1,110,231.28	$1,303,076.20	54.00%
5	203	4510	FY-10 IDEA (Regular)	$14,295.44	$0.00	$0.00	$14,295.44	100.00%
6	215	4540	FY-10 IDEA (Stimulus)	$8,577.26	$0.00	$0.00	$8,577.26	100.00%
7	250	4000	Federal Stabilization	$101,155.50	$0.00	$0.00	$101,155.50	100.00%
8	253	4331	Title II Enhancing Educational Technology (E2T2)	$655.23	$0.00	$0.00	$655.23	100.00%
9	301	3501	Increase HS Diploma Requirements	$4,500.00	$0.00	$0.00	$4,500.00	100.00%
10	311	3511	Professional Development	$0.00	$0.00	$0.00	$0.00	0.00%
11	332	3532	National Board Certification	$2,250.00	$0.00	$0.00	$2,250.00	100.00%
12	338	3538	At Risk	$51,765.32	$0.00	$0.00	$51,765.32	100.00%
13	344	3544	High Achieving Students	$0.00	$0.00	$0.00	$0.00	0.00%
14	350	3550	Teacher Salary Supplement	$25,054.00	$0.00	$0.00	$25,054.00	100.00%
15	355	3555	Teacher Salary Increase Fringe	$5,146.00	$0.00	$0.00	$5,146.00	100.00%
16	377	3577	Teacher Supplies	$7,700.00	$825.00	$7,700.00	$0.00	0.00%
17	382	3582	Principal Salary / Fringe Increase	$500.00	$0.00	$0.00	$500.00	100.00%
18	391	3591	Excellence in Middle Schools	$3,200.00	$0.00	$84.66	$3,115.34	97.35%
19	700	1790	Pupil Activity	$28,768.85	$3,045.25	$28,768.85	$0.00	0.00%
20	937	3127	Student Health & Fitness	$2,574.66	$0.00	$0.00	$2,574.66	100.00%
21	967	3607	6-8 Enhancement	$1,900.10	$0.00	$0.00	$1,900.10	100.00%
22			**Total Revenue**	**$2,674,749.84**	**$222,551.38**	**$1,148,341.02**	**$1,526,408.82**	**57.07%**

R-1127

DEFENDANT'S EXHIBIT 18 tabbies

Charleston Charter School for Math and Science

November 2010 Budget Report

	FND	FCT	OBJ	Instruction Expenditures	Budget	MTD	YTD	Remaining	%
23	100	110	110	Teacher Salaries	$915,578.99	$79,885.70	$372,713.44	$542,865.55	59.29%
24	100	110	120	Substitute Pay	$7,040.00	$1,396.00	$5,837.00	$1,203.00	17.09%
25	100	110	210	Group Health & Life Insurance	$89,599.21	$6,934.07	$34,219.56	$55,379.65	61.81%
26	100	110	220	Employee Retirement	$116,720.89	$10,294.54	$48,618.09	$68,102.80	58.35%
27	100	110	230	Social Security	$67,725.53	$5,520.68	$26,008.34	$41,717.19	61.60%
28	100	110	260	Unemployment Compensation Tax	$6,426.00	$0.00	$2,119.19	$4,306.81	67.02%
29	100	110	270	Worker's Compensation Tax	$8,240.21	$0.00	$8,272.12	($31.91)	-0.39%
30	100	110	311	Instructional Services	$20,000.00	$2,299.09	$9,205.22	$10,794.78	53.97%
31	100	110	410	Instructional Supplies	$80,000.00	$1,087.44	$30,469.91	$49,530.09	61.91%
32	377	110	410	Instructional Supplies	$7,700.00	($275.00)	$7,125.00	$575.00	7.47%
33	100	110	420	Instructional Textbooks	$2,000.00	$0.00	$64.00	$1,936.00	96.80%
34	100	110	445	Instructional Software (License)	$7,500.00	$1,137.57	$6,976.48	$523.52	6.98%
35	100	110	540	Instructional Equipment	$25,000.00	$0.00	$17,549.45	$7,450.55	29.80%
36	100	110	545	Instructional Cap Computers	$5,000.00	$0.00	$53.27	$4,946.73	98.93%
37	100	110	110	Exceptional Teacher Salaries	$39,175.00	$3,561.36	$14,245.44	$24,929.56	63.64%
38	100	110	210	Group Health & Life Insurance	$3,479.87	$529.96	$2,112.72	$1,367.15	39.29%
39	100	110	220	Employee Retirement	$5,206.36	$473.30	$1,893.20	$3,313.16	63.64%
40	100	110	230	Social Security	$2,996.89	$246.97	$1,001.32	$1,995.57	66.59%
41	100	110	260	Unemployment Compensation Tax	$476.00	$0.00	$238.00	$238.00	50.00%
42	100	110	270	Worker's Compensation Tax	$352.58	$0.00	$352.57	$0.00	0.00%
43	100	145	311	Homebound Services	$315.00	$0.00	$315.00	$0.00	0.00%
44	100	175	311	After School Program	$3,000.00	$0.00	$3,000.00	$0.00	0.00%
45	100	175	311	After School Academy	$11,000.00	$1,560.00	$3,175.00	$7,825.00	71.14%
46				**Total Instruction Expense**	**$1,424,532.51**	**$114,651.68**	**$595,564.32**	**$828,968.19**	**58.19%**

R-428

Charleston Charter School for Math and Science

November 2010 Budget Report

	FND	FCT	OBJ	Support Services Expenditures	Budget	MTD	YTD	Remaining	%
47	100	212	110	Guidance Salaries	$97,995.32	$8,166.28	$40,777.84	$57,217.48	58.39%
48	100	212	210	Group Health & Life Insurance	$6,959.74	$894.00	$4,459.32	$2,500.42	35.93%
49	100	212	220	Employee Retirement	$13,023.58	$1,085.30	$5,426.49	$7,597.09	58.33%
50	100	212	230	Social Security	$7,496.64	$527.63	$2,813.08	$4,683.56	62.48%
51	100	212	260	Unemployment Compensation Tax	$714.00	$0.00	$238.00	$476.00	66.67%
52	100	212	270	Worker's Compensation Tax	$881.96	$0.00	$881.96	$0.00	0.00%
53	100	212	410	Anti-Bullying Program Supplies	$2,000.00	$0.00	$0.00	$2,000.00	100.00%
54	100	212	314	Anti-Bullying Program Training	$6,000.00	$0.00	$0.00	$6,000.00	100.00%
55	100	213	110	Nurse Salaries	$35,420.00	$2,951.66	$14,758.30	$20,661.70	58.33%
56	100	213	220	Employee Retirement	$4,707.32	$392.28	$1,961.39	$2,745.93	58.33%
57	100	213	230	Social Security	$2,709.63	$219.19	$1,111.69	$1,597.94	58.97%
58	100	213	260	Unemployment Compensation Tax	$238.00	$0.00	$60.35	$177.65	74.64%
59	100	213	270	Worker's Compensation Tax	$318.78	$0.00	$165.00	$153.78	48.24%
60	100	213	311	Nurse Services	$400.00	$0.00	$253.38	$146.62	36.66%
61	100	213	410	Nurse Supplies	$500.00	$0.00	$0.00	$500.00	100.00%
62	100	214	313	Psychological Services	$4,000.00	$225.00	$1,881.25	$2,118.75	52.97%
63	100	215	313	Exceptional Program Services	$3,000.00	$0.00	$0.00	$3,000.00	100.00%
64	100	224	312	Staff Development and Training	$15,000.00	$246.44	$4,881.98	$10,118.02	67.45%
65	100	231	314	Board Training	$250.00	$0.00	$0.00	$250.00	100.00%
66	100	231	318	Audit Services	$14,650.00	$0.00	$14,650.00	$0.00	0.00%
67	100	231	319	Legal Services	$3,000.00	$0.00	$0.00	$3,000.00	100.00%
68	100	231	640	Membership Dues & Fees	$4,000.00	($85.00)	$3,636.00	$364.00	9.10%
69	100	231	650	Liability Insurance	$19,760.00	$0.00	$9,378.00	$10,382.00	52.54%
70	100	231	695	Short Term Debt (LOC)	$53,711.74	$0.00	$53,711.74	$0.00	0.00%

R-429

Charleston Charter School for Math and Science

November 2010 Budget Report

	FND	FCT	OBJ	Support Services Expenditures	Budget	MTD	YTD	Remaining	%
71	100	233	111	Principal Salaries	$105,492.42	$6,250.00	$31,250.00	$74,242.42	70.38%
72	100	233	111	Student Concerns Specialist	$9,749.97	$1,083.33	$9,749.97	$0.00	0.00%
73	100	233	115	Administrative Assistant Salaries	$99,072.76	$8,586.66	$38,006.14	$61,066.62	61.64%
74	100	233	210	Group Health & Life Insurance	$13,174.62	$828.50	$3,590.16	$9,584.46	72.75%
75	100	233	220	Employee Retirement	$28,482.48	$2,115.75	$10,117.06	$18,365.42	64.48%
76	100	233	230	Social Security	$16,395.11	$1,182.49	$6,048.68	$10,346.43	63.11%
77	100	233	260	Unemployment Compensation Tax	$1,904.00	$0.00	$787.20	$1,116.80	58.66%
78	100	233	270	Worker's Compensation Tax	$1,928.84	$0.00	$479.35	$1,449.49	75.15%
79	100	233	315	Administrative Staff Services	$18,000.00	$0.00	$0.00	$18,000.00	100.00%
80	100	233	332	Travel	$2,500.00	$390.00	$1,389.67	$1,110.33	44.41%
81	100	233	410	Office Supplies	$20,500.00	$3,983.24	$14,507.90	$5,992.10	29.23%
82	100	252	315	Fiscal Services	$42,000.00	$3,560.61	$17,075.77	$24,924.23	59.34%
83	100	252	690	Bank Fees	$900.00	$121.21	$549.21	$350.79	38.98%
84	100	254	321	Public Utility Services (Water & Sewer)	$10,300.00	$916.15	$3,283.81	$7,016.19	68.12%
85	100	254	322	Cleaning Services	$41,239.50	$0.00	$17,751.85	$23,487.65	56.95%
86	100	254	323	Property Services	$11,000.00	$1,775.85	$5,374.77	$5,625.23	51.14%
87	100	254	324	Property Insurance	$5,824.00	$0.00	$0.00	$5,824.00	100.00%
88	100	254	329	Trash Service	$4,688.56	$157.46	$787.82	$3,900.74	83.20%
89	100	254	340	Telephone	$13,000.00	$263.92	$1,537.25	$11,462.75	88.18%
90	100	254	410	Supplies	$5,000.00	$1,036.96	$3,853.47	$1,146.53	0.00%
91	100	254	470	Energy (Electric, Gas, Oil)	$45,000.00	$3,165.32	$15,914.91	$29,085.09	64.63%
92	100	255	331	Student Transportation	$103,000.00	$8,128.29	$47,750.14	$55,249.86	53.64%
93	100	258	329	Building Security System	$6,500.00	$0.00	$9,802.01	($3,302.01)	-50.80%
94	100	263	352	Marketing and Advertising	$7,000.00	$1,260.00	$6,392.61	$607.39	8.68%
95	100	266	345	Technology Services	$67,000.00	$3,195.00	$14,822.67	$52,177.33	77.88%

R-430

Charleston Charter School for Math and Science

November 2010 Budget Report

	FND	FCT	OBJ	Support Services Expenditures	Budget	MTD	YTD	Remaining	%
96	100	271	110	Athletic Director	$40,000.00	$3,333.34	$16,625.04	$23,374.96	58.44%
97	100	271	210	Group Health & Life Insurance	$3,479.87	$276.18	$1,380.90	$2,098.97	60.32%
98	100	271	220	Employee Retirement	$5,316.00	$443.00	$2,215.00	$3,101.00	58.33%
99	100	271	230	Social Security	$3,060.00	$247.85	$1,236.06	$1,823.94	59.61%
100	100	271	260	Unemployment Compensation Tax	$238.00	$0.00	$0.00	$238.00	100.00%
101	100	271	270	Worker's Compensation Tax	$360.00	$0.00	$0.00	$360.00	100.00%
102	100	271	300	Athletic Programs	$30,000.00	$0.00	$15,129.45	$14,870.55	49.57%
103	100	271	660	Field Trips	$1,500.00	($2,674.00)	($1,928.69)	$3,428.69	228.58%
104				**Total Support Services Expense**	**$1,060,342.83**	**$64,249.89**	**$456,525.95**	**$603,816.88**	**56.95%**
105				**Total Expenditures**	**$2,484,875.34**	**$178,901.57**	**$1,052,090.27**	**$1,432,785.07**	**57.66%**
106				**FY-11 Budget Balance**	**$189,874.50**	**$43,649.81**	**$96,250.75**		
107				**FY-10 Cash Balance**	**$78,496.71**		**$78,496.71**		
108				**FY-10 Account Receivable**	**$77,381.87**		**$77,381.87**		
109				**Previous Month Payroll Adjustments**			**$4,348.04**		
110				**FY-11 Fund Balance**	**$345,753.08**		**$256,477.37**		

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Conference with Cynthia McNaughton

December 1, 2010

Tamara Kirshtein: Gail Tolbert, Human Resources Administrator, will be taking notes during this meeting. I asked you here today because we gave our children a benchmark test in math. They did not do well in Algebra I. Algebra is a high stakes subject area because students take end of course tests in that subject. Therefore, since we are a science/math school, parents have been complaining that their children need more math to be able to pass the end of course tests in Algebra. So, I have decided to give children a double dose of math. To do this I have to take them out of an elective in order to put them into a PASS Prep remedial class. This means they have to be offered an additional math class instead of art.

I hate to do this, but I have to for the children. Ms. Pedings and I have been looking for a math computer program to remediate the children. We also looked at a math tutoring in the morning for them and a math packet for them to take home during the holidays. This is good for the students, but bad news for your position.

We have hired a new math teacher to come in on December 13, 2010. Mr. Singletary will work in the math lab. Other teachers' schedules will be affected too. These changes will have to happen before the holiday break. We have an option for you—your last day is December 10th, but you can stay until the 17th to help out with the transition and be paid until December 30th.

I don't like to do this, but this is the only way to get our math students up to where they need to be academically. This has nothing to do with you personally but is a decision that is made strictly for the children.

You have been a good employee and we have enjoyed having you. This is not an easy decision but we don't have any extra teacher points. I will be happy to write you a letter of reference and explain why you were riffed.

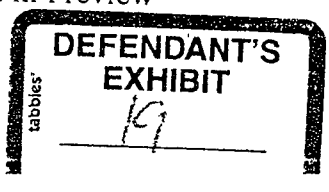
You can apply for unemployment benefits. In addition, you will still be able to complete the PACE Pre-service if you are hired again. Please contact Kathy Smalls in the CCSD Benefits Department regarding COBRA.

Parents will have to be told ASAP. How do you want to let the faculty know? Do you want me to do it or do you want to let them know? I will tell your students on the 13th. And I will do all I can to make your transition go as smoothly as possible.

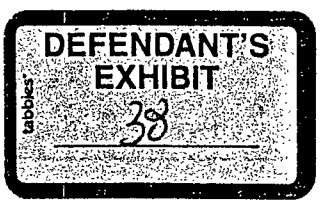
Cynthia McNaughton: Can I get back with you in a few days and let you know how I want the faculty to know?

Tamara Kirshtein: Of course, you can. Just let me know which way will make you most comfortable.

A few days later, Cynthia asked Tamara to announce her leaving in the Week in Preview that is sent to all faculty and staff by email each Sunday evening.



Sarah Lesica - 9th Algebra 1			Larry Singletary - 8th Algebra 1		
1B - CP Alg 1	2A - CP Alg 1		4A - CP Alg 1	2A - H Alg 1	3A - CP Alg 1
78	70		17	54	49
58	75		39	41	41
61	65		37	49	37
78	54		20	49	27
58	65		15	59	51
65	78		20	80	46
54	78		51	59	34
65	78		46	39	44
68	78		39	46	32
70	79		17	66	34
68	84		27	44	41
61	73		27	68	34
79	75		39	71	29
83			37	56	37
61			54	66	29
			22	59	53
62.9375	73.23076923		34	66	37
			22	41	34
			20	51	34
			29		34
			37		49
					34
					37
					34
					27
					29
			30.9047619	56	37.19230769



2nd Quarter Benchmark

Honors Algebra (2B)

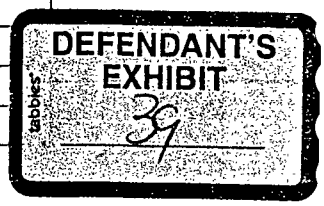
Grade	Total Amount		Percentage Passing	Percentage Below 70	
75	1	75	16%	74%	
73	1	73			
70	1	70	19		
68	1	68	51.63157895		
66	1	66			
61	2	122			
57	1	57			
55	1	55			
52	2	104			
48	2	96			
41	1	41			
39	1	39			
32	2	64			
30	1	30			
21	1	21			

Honors Algebra (3B)

Grade	Total Amount		Percentage Passing	Percentage Below 70	
50	1	50	0%	100%	
48	1	48			
39	2	78	26		
34	2	68	754		
32	5	160	29		
30	4	120			
27	1	27			
23	2	46			
21	5	105			
18	2	36			
16	1	16			

Honors Algebra (4B)

Grade	Total Amount		Percentage Passing	Percentage Below 70	
43	1	43	0%	100%	
41	2	82			
39	1	39	20		
36	1	36	575		
34	2	68	28.75		
32	1	32			
30	1	30			
27	1	27			
25	2	50			
23	3	69			
21	3	63			
18	2	36			



Lesica - CP					
57			40.75		
59					
25					
30					
27					
43					
43					
27					
43					
61					
44					
30					
Lesica - Repeaters					
39			47.38461538		
41					
67					
45					
43					
32					
70					
32					
80					
32					
32					
23					
80					

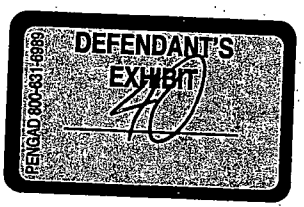
Applicant Narrative Content

A. Charter School Mission Statement

On November 29, 2006, the Charter Committee of the Charleston Charter School for Math and Science drafted and approved this mission statement, consistent with the intent of the SC Charter Schools Act:

The Mission of the Charleston Charter School for Math and Science is to educate students for success in college and careers by providing an innovative learning environment that is academically excellent, developmentally responsive, and socially equitable.

With this mission, in accordance with the South Carolina Charter Schools Act, the Charleston Charter School for Math and Science will improve student learning, increase learning opportunities for students, encourage the use of a variety of productive teaching methods, establish new forms of accountability for schools, create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site, and assist South Carolina in reaching academic excellence.



B. Admissions Policies and Procedures

1. Enrollment Procedures

a.

In accordance with Section 59-40-50 of the South Carolina Code of Laws, Title 59, Chapter 40, the Charleston Charter School for Math and Science, Inc. (CCSMS) Charter Committee will ensure equity of access for all students of Charleston County School District (CCSD). CCSMS will admit all CCSD children eligible to attend public school subject to space limitations and based on grade levels served (6th, 7th, 8th, and 9th in 2008 with grades added each subsequent year).

b.

Students requesting entrance into CCSMS must complete and return the approved CCSMS Application form. At the time of the application, applicants will be given a copy of the Open Enrollment Lottery Procedures, written information regarding program philosophy, program goals, and parental and student requirements that are a part of the CCSMS school guidelines. For the 2008-2009 school year, applications will be accepted from October 1, 2007 through January 9, 2008 with a random public lottery (should the school receive more applications than available student slots) scheduled for January 15, 2008. The CCSMS Board of Directors will establish application and lottery dates for the subsequent years.

The address for submitting applications will be:

Charleston Charter School for Math and Science

PO Box 21406

Charleston, SC 29413

New students who have been chosen to attend CCSMS must register within fourteen school days after notification. Those students who do not enroll within the designated period will be withdrawn from the accepted enrollment list and they must reapply if they wish to attend. Accepted students and parents (or guardians) are required to attend an orientation session prior to enrollment. These sessions will be designed to familiarize the students and their families with CCSMS policies and responsibilities and to begin to identify the students' individual interests, strengths, and needs. Acceptance to CCSMS may not be deferred to another school year. After January 9th, 2008, applications may continue to be accepted if space permits. Admission will be offered based on the order in which the application is received.

c.

In accordance with the South Carolina Charter School Act of 1996, if the number of applications at 5 p.m. on January 9th, 2008, exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor. A lottery card bearing the name of the student and his/her grade will be created for each applicant after verifying each lottery card against the application.

- The individual lottery card will be placed in an unmarked envelop.
- All lottery cards (in their unmarked envelops) will be placed in large, clear containers by grade applied for and shuffled thoroughly.
- A representative selected by the Board will draw and open an envelope and the board secretary will record the applicant's name and lottery order

number. The lottery order number will be concurrently recorded on the applicant's lottery card and the application.

- The process will continue until all envelopes have been drawn, opened, and recorded.
- The names drawn in lottery number order equaling the enrollment openings will be placed on class roster for that grade.
- The remaining names will be placed on a waiting list for that grade in their lottery order number.
- The process will be repeated for all appropriate grade levels.

Parents must give written permission to share their name, address, and phone number in a "waiting list directory" in order to facilitate truth and transparency. This information will be kept at the principal's office.

Returning students who are currently enrolled in CCSMS shall not be required to re-apply and be part of the public random drawing, but shall be required to notify the school of their intent to return by January 31st. If the intent is received after the January 31st deadline placement at CCSMS can not be guaranteed.

d.

In accordance with Section 59-40-50 of the South Carolina Code of Laws, Title 59, Chapter 40, The Charleston Charter School for Math and Science will grant priority to siblings of a pupil presently enrolled and to children of a charter committee members not to exceed twenty percent of the enrollment of the charter school.

CCSMS policy will prohibit discrimination on the basis of race, color, religion, national origin, sex, marital status, sexual orientation, educational affiliation, handicap

status, or age. Our community outreach initiatives and enrollment policies have been developed to eliminate barriers that could impede equitable access or participation. It is the goal of the Charter Committee for the racial composition of the student enrollment at the CCSMS to reflect the enrollment of the Charleston County School District, 53.4% African American, 41% Caucasian, and 5.6% Other (falling within twenty percent per the SC State Charter School Act). We believe this to be attainable through the implementation of the committee's innovative community outreach plans and student recruitment efforts documented in the table below with these efforts leading to a diverse applicant pool and resulting in a racial composition reflective of the Charleston County School District.

Community Outreach Plans for enrollment of a diverse student body:
• Relationships will be forged with guidance counselors and teachers, especially those teaching math and science.
• Hands-on mini science expos at potential feeder schools, youth clubs, scout troops, and neighborhood community centers.
• Partnering opportunities will be sought with local colleges to sponsor math and science challenges.
• Promote math and science through activities with local museums, public parks, and public libraries.
• Write a column or an activity for publishing in local newspapers, magazines, and family oriented websites.
• Post announcements in Post and Courier and community papers distributed to Charleston County residents.
• Open house gatherings at the school.
• Student and family oriented newsletter sent to those who apply.
• Present to major employers located in the downtown area or with parents who would be excited by a Math and Science focused curriculum, e.g. the Medical University of South Carolina.
• Meet with local religious leaders and their congregations who have strong ties to the community.
• Make presentations to neighborhood organizations, especially those with relatively easy commutes to a downtown school.

• The CCSMS website will include an overview of the school, a printable application, enrollment procedures, deadlines, and contact information in case a student requires specific assistance in applying to the school.
• Brochures and applications will be made available throughout the county at libraries, churches, civic groups, neighborhood associations, and other similar organizations.

2. Out-of-District Students

Not Applicable.

At the current time, the charter school does not plan to enroll out-of-district students. At a charter committee meeting held March 29, 2007, the Charter Committee agreed to limit enrollment to eligible students in the Charleston County School District attendance area.

3. Student Appeals Process

Students denied admission for reasons other than lottery results may appeal that decision to the Charleston County School District Board of Trustees. The appeal shall be in writing and state the grounds on which it is based. The decision of the Charleston County School District School Board shall be binding and final without right of appeal (Section 59-40-50(C)(1)).

C. Support for Formation of the Carter School

1. Charter Committee

The charter committee consists of fifty-six parents and community leaders, representing diverse racial/ethnic backgrounds, results-oriented educators with charter school experience, former school board members, business and political leaders, and student advocates. Formed on May 17, 2006, the charter committee has propelled the concept into an attainable reality. Since membership on the committee is limited to one per family, the total number of parents represented by this committee is more than one hundred. They communicate about the proposed school on a regular basis via a Yahoo Chat Group, which includes one hundred and one members and hundreds of related files, links and articles (http://groups.yahoo.com/group/charlestoncharterschool/).

Carol Aust, 106 Gordon St, Charleston, SC 29403
- Co-founder & Co-Chairperson of District 20 Parents
- Vice Chairperson of Parents for Public Schools
- Secretary & Governance Chair of CCSMS, Executive Committee
Melinda Ballard, 15 Orange Street, Charleston, SC 29401
- Editor of the CCSMS Newsletter
Vernesha Brown, 5415 Marie Street, Charleston, S.C. 29406
- Parent
Major Licia Calloway, Ph. D., MSC 59 The Citadel, Charleston, S.C. 29409
- Associate Professor, English, The Citadel
Krystal Campbell, P.O. Box 1951, Goose Creek, SC 29445
- CCSD M-Gap Counselor
Mary Carmichael, 4 Dunvegan Dr., Charleston, SC 29414
- Education grant-writer for the Chesapeake Foundation
- Treasurer & Education Chair of CCSMS, Executive Committee

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Leroy Connors, 323 Grove Street, Charleston, SC 29403
- Co-founder of Friends of Burke, Co-Chair of District 20 Parents,
- Former member of the District 20 Constituent School Board
- Taught at Education Redirection, Chas. County's first charter school
- Executive Committee of CCSMS
Ivan Connors, 1476 Orange Grove Rd., Apt F-1, Charleston, SC 29407
- Parent
Christopher Davies, Ph.D., 831 Duck Hawk Retreat, Charleston, SC 29413
- Professor of Biochemistry and Molecular Biology, MUSC
Nadine Johnston Deif, 3305 Hartnett Blvd., Isle of Palms, SC 29451
- Parent
Park Dougherty, 111 Broad St., Charleston, SC 29401
- Chair of CCSMS Business & Communications Committee
- President of CCSMS, Executive Committee
Leslie Dungee, P.O. Box 21089, Charleston, SC 29413
- Certified teacher, grades 1-8
Consuela Francis, Ph.D., 204 Royal Palm Blvd., Isle of Palms, SC 29464
- Professor of English & African-American Literature, COC
Ms. Vivian Frasier Gathers, 4 Heathwood Dr., Charleston, SC 29407
- Parent, Registered Nurse, MUSC
W. Gordon Geer, 14 Rutledge, Charleston, SC 29401
- Parent
Bonnie Gilbreth, 3 Legare Street, Charleston, SC 29401
- Parent
Richard Gowe, 3 Elmwood Ave., Charleston, SC 29403
- Architect, Facilities Chairperson, CCSMS
Vanessa Graham, 294 Hook Lane, Mt. Pleasant S.C. 29464
- Radiology
Joseph E. Green, 5 Elmwood Ave, Charleston, SC 29403
- District 20 Const. School Board, Executive Committee of CCSMS
Cathy Gregorie, 55 Legare Street, Charleston, SC 29401
- Parent

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Nancy Gregory, Ph.D., 4991 Trexler Ave., Hollywood, SC 29449
- SC Charter Advisory Committee
- Former Principal of James Island Charter High School
Jane Maybank Grigorieff, 16 Elmwood, Charleston, SC 29403
- Architect, Trustee of the College of Building Arts
Kimberly Gwynn, 2604 Crooked Stick Lane, Mt. Pleasant, SC 29464
- M.Ed. in Elementary Education, M.Ed. in Elementary Administration.
- National Board Certification.
Edward Hart, DMA, 169 ½ Tradd St, Charleston, SC 29401
- Composer and Professor of Music, College of Charleston
Chris Hitopoulos, 53 Ashley Ave, Charleston, SC 29401
- District 20 Parents
Cynthia Hurd, Dart Hall Library, 1067 King Street, Charleston, SC 29403
- Masters in Library Science
Julie Hussey, 20 Wentworth Street, Charleston, SC 29401
- Board Member & Secretary of Charleston County First Steps
- District 20 Parents
Renee Jefferson, Ph. D, 110 Citadel-Register Rd., Charleston, SC 29403
- Professor of Education, The Citadel
Elizabeth Jennings, Ph. D., 195 Ionsborough Street, Mt. Pleasant, SC 29464
- DC Public Charter School Board, Taught 8th Grade Social Studies
Capt. DuBose Kapeluck, Ph.D, 171 Moultrie Ave, Charleston, SC 29409
- Professor of Political Science, The Citadel
Larry D Krasnoff, Ph.D., 9 1/2 Felix St, Charleston, SC 29403
- Professor of Philosophy, College of Charleston
Lindsey Long, 181 Tradd Street, Charleston, SC 29401
- Parent
Tara Lowry, 6 Bee Street, Charleston, SC 29403
- Parent
Latonya Memminger, 1 E Hampstead Square, Charleston, SC 29403
- Chairperson, Frazier School Improvement Council

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Stephen Meyers, 2319 Blue Fish Circle, Charleston, SC 29412 - Parent - Basketball coach at Charleston Day School, - Director of the SHOOTS basketball camp.
Robert Miller, 8 Ashmead Place, Charleston, SC 29403 - Community member
Lakeesha Molen, 1315 Bexley Street, North Charleston, SC 29405 - Parent
Robert New, P.O. Box 1488, Folly Beach, SC 29439 - Former chairperson of the Charleston County School Board
Eleanor Parker, 642 Rue de Muckle, Mt. Pleasant, SC 29464 - Parent
Laura Rames, MD, 710 Ashburn Lane, Mt. Pleasant, SC 29464 - Clinical Assistant Professor, MUSC
Marie-Louise Ramsdale, 2115 Pettigrew St, Sullivans Island, SC 29482 - Attorney with experience setting up non-profits
Tim Reese, 305 Station 20, Sullivans Island, SC 29482 - Parent
Leanne Reynolds, 2604 Crooked Stick Lane, Mt. Pleasant, SC 29464 - Founder and Head of School, Hampton Roads Country Day School - M.Ed. in Administration, M.A.T. in Elementary Education
Sylvia Rivers, P.O. Box 692, Folly Beach, SC 29439 - Parent
Jamie Robinson, 751 5 Street, Mt. Pleasant, SC 29464 - Burke P.T.A.
Edward Rouse, 101 D North Romney St, Charleston, SC 29403 - Parent
Robert Russell, Ph.D., 67 Warren St, Charleston, SC 29403 - Professor, College of Charleston
Diana Ruttonsha, 278 Congress St, Charleston, SC 29403 - Certified Teacher, District 20 Parents

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Abigail Ryan, 3 Dewey Street, Charleston, SC 29403
- Certified Teacher, grades 1-8
Lisa Sexton, 6 Wentworth St, Charleston, SC 29401
- District 20 Parents
Paula Simmons, 29 Dunneman Avenue, Charleston, S.C. 29403
- Parent
Bruce Smith, 8 George St., Charleston, SC 29401
- District 20 Parents
Cindi Solomon, 2614 Bayonne St., Sullivans Island, SC 29482
- Parent
Meredith Temples, 16 Ludwell Street, Charleston, SC 29407
- Parent
Clisby Williams, 117 Moultrie Street, Charleston, SC 29403
- Parent
David Wolf, 286 Meeting Street, First Floor, Charleston, SC 29401
- Attorney, Parent

2. <u>Evidence of Support</u>

"I applaud and support the effort to establish a charter middle high school on the Charleston peninsula. Nothing is more important to our city than expanding opportunities for quality education. Towards that, the Charleston Charter School for Math & Science will be a tremendous and welcome addition."

- Joseph P. Riley, Jr., Mayor of Charleston, April 30, 2007

"For South Carolina to be competitive in today's economy, more students must excel in mathematics and the sciences. Students who complete this rigorous curriculum will be more likely to select a college major in the sciences, mathematics, and engineering."

- Inez Tenenbaum, SC Superintendent of Education, 1999 – 2007

(In reference to the CCSMS, April 30, 2007.)

The idea of the Charleston Charter School for Math and Science (CCSMS) began with parents and community leaders, who desire an innovative and diverse learning environment, as an alternative to the failing public schools in Charleston County, where, according to the 2006 Annual School Report Card, 75% of the middle schools (20) and 63% of the high schools (10) did not meet Annual Yearly Progress (AYP.) Furthermore, 55% of the middle schools (11) and 44% of the high schools (7) scored below basic or lower than the absolute rating. The Charter school model was a natural fit for the committee looking for autonomy from the school district and the ability to create a new learning environment available for all students. "These schools are breaking apart the myth that some children can't learn. By acting as laboratories for best practices, they are changing attitudes about education and they're getting great results for kids," said U.S. Secretary of Education Margaret Spellings, April 27, 2007.

Organized by the CCSMS charter committee, interested parents and community leaders have come together in fifteen public meetings to discuss community and student needs, existing issues with the current schools, various efforts by the district to improve some of the schools, race relations and desegregation of the schools, the benefits of being a charter school, and the challenges to developing a successful public school. Early in the process, the committee decided that the school should focus on math and science, for many reasons. Educators stress that these subject areas require extra preparation

and must be taught in high school to give children a chance to pursue them in college. Parents like the facts that students focusing on these disciplines succeed in college and find better jobs. National policymakers say that increasing educational opportunities in these fields is critical to the economic security of the United States.

In math literacy and problem solving, U.S. fifteen year olds ranked 24th out of the 29 countries in the Organization for Economic Cooperation and Development in its 2003 Program for International Student Assessment. In addition to preparing children for exciting careers, improving educational opportunities in math and science is essential to strengthening the ability of Americans, South Carolinians and Charlestonians to compete effectively in the rapidly changing global economy.

In a state with the highest high school dropout rate in the U.S. (roughly 50%) and a district, District 20, where the only public high school has a drop out rate of 73%, parents, educators and policymakers have serious concerns about the training peninsula Charleston's children are receiving in the scientific disciplines. These concerns are underscored by the 2006 Charleston County PACT Tests in which 59% of students scored basic or below basic in Mathematics and 67% scored basis or below basic in Science. Only 46% of students passed the End of Course test in Physical Science in Charleston County. Because of these concerns and belief in the charter model for building successful schools, support for the CCSMS is very strong and building rapidly.

Citing this state's "desperate" need for more engineers and computer scientists, the deans of engineering at Clemson, USC and The Citadel made alarming observations about the condition of math and science education in this state's high schools and called for immediate improvements in it. In an article published in the Post and Courier on Dec. 12, 2006, they said that S.C. students are "not being adequately prepared in high school," "don't understand what an engineer does," and "fail to take enough math and science courses in high school to qualify for admission." Within one week, Representative Bobby Harrell, the Speaker of the S.C. House of Representatives, announced that the Ways and Means Committee was developing legislation to increase the funding of Life and Palmetto Scholarships for undergraduates who major in math, science or math and science education (H3170.) The Senate Education Committee is also developing legislation (S291) that would reward undergraduates for majoring in the sciences.

Downtown Charleston's District 20 was chosen as the location for CCSMS both because of the failures of the existing schools and also because there is a large, underutilized school building, which has served as a high school and as a middle school at various periods in its history. There is profound dissatisfaction with the existing public schools and strong support for this charter school in every District 20 neighborhood. The neighborhood associations of two that surround this building (Westside and North Central) invited representatives of the CCSMS to make presentations to its members and received this concept warmly in February and March, respectively. In May, another D20 neighborhood association, the Charlestowne N.A. (CNA,) completed a report on its

Quality of Life Survey, in which public education was the point of highest dissatisfaction. 83% of the respondents expressed "strong dissatisfaction" with their public school options – even though only 14% had school age children. 62% are "quite dissatisfied" with the costs of K-12 education. In conclusion the report stated: "Lower-cost, high-quality education is a very high priority for our neighborhood. Economic development and a vibrant neighborhood depend on education. The math and science charter school is a priority initiative affecting our neighborhood's quality of life. The CNA Board should submit a strong letter of endorsement to the Mayor and the School board supporting this Charter School."

Another reason for the overwhelming support for this grassroots initiative is its potential to build an integrated school that reflects the racial balance of this community. Fifty-three years after the Brown vs. the Board of Education decision by the U.S. Supreme Court, District 20's schools are still segregated. The African-American populations of all but one exceed 95%. The one exception is three fourths white. The CCSMS committee and education professionals believe, for three reasons, that its proposal has the best chance of changing this unacceptable situation in District 20 today.

First, the charter governance model puts parents in charge. It is parents, ultimately, who decide where their children attend school. Black and white parents have come together to create the CCSMS, are committed to sending their children to it and are committed to building a school that will welcome children of all socio-economic backgrounds. Second, the S.C. Charter Act of 1996 stipulates that each charter school

reflect the racial makeup of its target population within twenty percentage points. Third, the proposed campus has a history of serving both white and black children. During its first 35 years, its population was exclusively white, until 1963, when it became the first school in South Carolina to be integrated. By 2005, its population was exclusively black, when it was virtually emptied. Today, with only 50 students, the Rivers campus is 93% vacant. While members of one race or another might make exclusive claims to this property based on one period of its history or another, the most significant fact is that it is 93% vacant today and there is plenty of room for everyone of good will. The time has come for the pendulum to swing to the middle and stay there. This proposed charter school provides the best opportunity for this goal to be achieved.

On January 28, 2007, the District 20 Constituent School Board voted 5-0 in support of the CCSMS and for locating it at Rivers. On February 7, Mayor Riley met with CCSMS representatives and expressed his support for locating it at Rivers in conjunction with a career academy proposed by the Charleston County School District (CCSD.) On February 14, the SC Department of Education approved initial funding of a $220,000 grant to the CCSMS charter committee for further planning and implementation of its proposal. On February 27, the Superintendent of the CCSD, Dr. Maria Goodloe-Johnson, chaired a meeting at which four CCSD department heads, four Charleston County School Board members and charter school representatives and directed the Chief Academic Officer, Dr. Nancy McGinley, to explore the possibility of a joint venture at Rivers between the charter school and the school district. Since then, there have been three meetings with Dr. McGinley to work out the details of such an arrangement.

Whether or not the proposed arrangement with the Charleston County School District can be worked out, whereby the Rivers facility is shared by CCSMS and a CCSD career academy, the very existence of this good faith effort by the school district to cooperate to this extent with this charter committee speaks loudly to the tremendous support that this charter school initiative enjoys among politicians and professional educators. Another educational institution which is supporting this effort is the James Island Charter High School which included funding for the CCSMS web page in its Dissemination Grant request.

In summary, support for the Charleston Charter School for Math and Science runs broad and deep among people who are truly concerned about education, as indicated by the statements, votes, articles, columns, meetings, surveys and 56 member charter committee cited above. Appendix B provides further evidence of this fact with a selection of articles and letters (twelve of the forty) supporting this initiative by a wide variety of people, including, Mayor Joseph P. Riley, Jr., the Provost of the Medical University of South Carolina, the Dean of U.S.C.'s Engineering and Information Technology Department, the co-founder of District 20 Families, the Chairman of the District 20 Constituent School Board, and the Chair of the Belmont Abbey College Department of Education, who lived and taught in Charleston for 12 years and, as author of Introduction to Middle School, is a national authority on middle grades education.

3. Conversion Schools

Not applicable.

D. Educational Program

1. Student Population

a. CCSMS Projected Student Numbers:

Operating Year:	Year 1	Year 2	Year 3	Year 4	Year 5
Calendar Year:	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
6th Grade Students	40	40	60	60	40
7th Grade Students	40	60	60	60	60
8th Grade Students	40	40	60	60	60
9th Grade Students	80	80	80	80	80
10th Grade Students	0	80	80	80	80
11th Grade Students	0	0	60	80	80
12th Grade Students	0	0	0	60	80
Total Students Per Year:	**200**	**300**	**400**	**480**	**480**

See Appendix A for proposed Student Enrollment Projections on State Department of Education Form. These numbers accommodate 2 separate schools within the Rivers school building. If the District's other proposed educational opportunities do not develop, the Charter Committee or Board of Directors will consider expanding the student population.

CCSMS will identify students by grade level. The target population of students for CCSMS will be students eligible to enter grades six through twelve in Charleston County, whose learning potential is not being realized by the educational opportunities currently available to them. On the 2006 Charleston County PACT Tests, 59% of students scored basic or below basic in Mathematics and 67% of students scored basic or below basic in Science.

The CCSMS grade distribution keeps the student to teacher ratio at 20 to 1. Grades 6 through 9 are organized into teams of teachers – math, science, English and language arts, and social studies. In an effort to accommodate the various combinations of grades in Charleston County's Elementary and Middle Schools, there will be additional student seats available in the 7th grade and 9th grade during annual enrollment procedures.

b. Conversion Schools: *Not Applicable.*

2. Goals and Objectives

In compliance with the SC Charter School Act, the educational goals of CCSMS reflect the school's mission statement. Each objective indicates specific student centered outcomes. Strategies are included with the related objective to accomplish each educational goal. CCSMS's goals and objectives were drafted to bring the mission of the school into action:

Goal 1: To educate all CCSMS students for success in college and careers, specifically in the fields of math and science.

Objective 1.1.

Each school year, 100% of students will demonstrate an increased ability to construct knowledge using contextually appropriate resources in class, including original data, primary sources, scientific instruments, and interactive technology,

which will develop higher level thinking skills needed for success in college and careers, especially in the fields of math and science.

Assessment: Each student's ability to construct knowledge will be measured through teacher observation using course specific rubrics. Teachers will document individual student's methods of problem solving and use of resources. Teachers will work with students to assess their progress and level of mastery on each rubric.

Strategies include:

- Actively engaging students in learning and constructing knowledge. Constructivism emphasizes the importance of the knowledge, beliefs, and skills an individual brings to the experience of learning. It recognizes the construction of new understanding as a combination of prior learning, new information, and readiness to learn.
- Use of contextually appropriate resources, including original data, primary sources, scientific instruments, and interactive technology to make real world connections with SC Academic Standards.
- Using project based learning in courses, CCSMS will work to develop students who can think, not just memorize; who can figure things out using their minds and their hands, not just take a test. Fully integrate academic standards into the curriculum through hands-on project based learning in every classroom and with students engaged in constructing knowledge.

- Use of research based instructional strategies in the classroom where students will learn to understand important concepts, will develop higher-level thinking skills, and will engage in meaningful classroom dialogue.
- Providing teacher training and professional development that supports the use of research based instructional strategies.
- Ensure teachers have the resources and planning time to support high student achievement.

Sample Rubric for Objective 1.1. (7/6/2007 Revision)

Each student will demonstrate their increasing ability to construct knowledge throughout each the school year. This will be will be measured by teacher observation using course specific rubrics similar to the following table.

	4	3	2	1
Problem Solving	The student selects the solution that is the most effective for overcoming the obstacle or constraint and accurately explains why it is the most effective of the possible solutions.	The student selects the solution that is the most effective for overcoming the obstacle or constraint, but does not explain why it is the most effective of the possible solutions.	The student selects a solution that overcomes the obstacle or constraint, but it is not the most effective solution given the options.	The student selects a solution that does not overcome the obstacle or constraint.
Experimental Inquiry	The student designs and conducts an experiment that insightfully tests a well-articulated hypothesis. The student fully and accurately explains the results in light of	The student designs and conducts an experiment that adequately tests a hypothesis. The student explains the results in light of the hypothesis.	The student designs and conducts an experiment that is related to the situation but does not adequately test the hypothesis.	The student does not design and conduct an experiment, or designs one that has no relationship to the hypothesis.

	the hypothesis. The student makes recommendations about how the experiment should be refined.			
Invention Process	The student develops an invention that improves a situation or meets a specific need. The student sets and exceeds high standards for the invention.	The student develops an invention that improves a situation or meets a specific need. The student sets and meets standards for the invention.	The student develops an invention, but the invention does not clearly improve a situation or meet a specific need. The student sets but does not meet standards for the invention.	The student attempts to develop an invention, but the invention does not improve a situation or meet a specific need. 20a of 147 meet the standards for the invention.
Application of Scientific Instruments	The student applies proper use of the equipment without assistance and identifies additional applications for the equipment.	The student applies proper use of the equipment without assistance.	The student understands the application with some assistance.	The student has no understanding of application without assistance.
Utilization of Information, Data, and/or Primary Sources	The student applies information effectively using a wide variety of techniques and sources. The student consistently organizes information logically and creatively.	The student usually gathers information effectively using a variety of techniques and sources. The student usually organizes information logically and creatively.	The student gathers information with some assistance. The student sometimes organizes information logically and creatively.	The student needs assistance to gather information. The student requires assistance to organize information.

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Objective 1.2

Before graduating, 100% of students will explore at least 3 prospective careers which will develop relevance between their course work and potential careers involving math and science.

Assessment: Students' achievement of this objective will be followed through course work, internships, and development of their Individual Graduation Plan. For each prospective career, students will identify training and/or education requirements, future hiring projections, and potential wages. Students will document their experiences in their student portfolios and Individual Graduation Plans. Teachers and guidance counselors will assess student progress through review of student portfolios, student self assessment, Individual Graduation Plans, and authentic assessment.

Strategies include:

- Develop partnerships with Charleston's research, medical, and business institutions to sponsor internships, volunteer at the school, and provide academic and career advising.
- Use of project based learning curriculum that encourages the connections between classroom work and math and science related careers.
- Provide educational opportunities to students and their families about the extensive career possibilities involving math and science. Include outreach to families about college financial aid, especially scholarships for students interested in pursuing academic studies in math or science. Illustrate for

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families the lack of qualified applicants for jobs involving math and science with hopes of encouraging families to further value and encourage their child's educational interests.

- Implement best practices identified by the US Department of Education that support readiness for success in post-secondary education and in the 21st century workforce including a rigorous curriculum with advanced math and science course work.

Goal 2: To support academic excellence for all CCSMS students with an innovative learning environment that is developmentally responsive and socially equitable.

Objective 2.1.

100% of students who are not meeting specific course benchmarks during the school year will utilize available supports and resources until they are able demonstrate an increased understanding of the course work which will ensure that all students acquire the skills and knowledge needed for further academic success in rigorous courses.

Assessment: Student progress will be measured throughout the year using specific course benchmarks developed by teachers annually that will incorporate skills needed in rigorous courses through college with the SC Academic Standards. The students' increased understanding of the course work will be

measured through the benchmark assessments using previous and current scores.

Strategies include:

- All students testing below grade level or not reaching their curricular benchmarks during the school year will be provided with extra educational support and resources. Intensive intervention and instructional strategies will focus on increasing reading and math achievement.
- Creating a data rich environment focused on the needs of the individual students, with benchmarks measured throughout the school year and teachers having the flexibility to modify their lesson plans as needed within the curriculum.
- By documenting their own individual benchmarks throughout the school year, students gain a sense of ownership, pride, and understanding of the process.
- Rigorous high school courses have shown to mitigate the effects of socioeconomic status. The challenge of the courses and the emphasis on critical thinking, study skills, and increased content knowledge prepares a student for college work.
- CCSMS will be an inclusive school working with school district and various community resources to ensure that we effectively educate all students enrolled at the school.
- A critical part of the mission of the school is to be developmentally responsive for each child. Teachers, administrators, community resource coordinators, parents (or guardians), volunteers, and students themselves will work

together to identify the supports, instructional strategies, and resources needed to ensure each child can succeed.

Objective 2.1.

Additional Information

Student Progression for Objective 2.1.
⇨ Benchmark testing of all students throughout the course.
⇨ Student identified as not meeting specific course benchmarks.
⇨ Student utilizes appropriate academic supports and resources until they are able to reach course benchmarks.
⇨ Student retakes benchmark tests to demonstrate an increased understanding of the course work.

An individual student's "increased understanding" will be demonstrated by the student when they successfully reach course benchmarks. CCSMS will get a baseline measurement of student ability at the beginning of each course (pre-test) and will monitor student progress towards course benchmarks through the assessment. The student's progress in reaching these benchmarks will be documented with reassessment data compared to their original scores.

The specific course benchmark assessments, including MAP testing, will incorporate the SC Academic Standards. With the assessment data, CCSMS will take proactive measures to ensure students are meeting course benchmarks.

Objective 2.2.

In grades 6 through 9, 100% of students will demonstrate an increased use of individual learning strategies to construct knowledge which will support academic excellence for all students and help close the achievement gap.

Assessment: Individual learning strategies and study skills will be measured with rubrics designed for each child depending on their strengths, learning styles, and needs. Teams of teachers will work together to measure and further develop each student's skills.

Strategies include:

- Grades 6 through 9 will be taught by teams of teachers who will work together to teach students to build on their strengths and accelerate their learning capacities. To accelerate their individual learning capacity, students will develop learning strategies and study skills based on their personal educational needs.
- Teachers will work with students to identify student strengths, learning styles, and multiple intelligences. Students will develop an understanding of how they learn and acquire knowledge.
- Students will also understand how other students learn and process the same information differently which will lead to improved classroom teamwork and communication among peers.
- The team teaching approach will encourage teachers to support each others instructional endeavors and will support developing comprehensive strategies

for individual students using assessment data and research based best practices. Teachers will have ample planning time scheduled weekly.

- Actively engaging students in learning and constructing knowledge. Constructivism emphasizes the importance of the knowledge, beliefs, and skills an individual brings to the experience of learning. It recognizes the construction of new understanding as a combination of prior learning, new information, and readiness to learn.
- Providing teacher training and professional development that supports the use of research based instructional strategies.
- Ensure teachers have the resources and planning time to support high student achievement.

Goal 3: To increase learning opportunities for students within the public education system of Charleston County.

Objective 3.1.

100% of students that enroll at CCSMS working below grade level, but not requiring an IEP, will gain at least two years of proficiency for each year of instruction at the school up to their grade level with an outcome focused on increasing learning opportunities for individual children.

Assessment: Grade level proficiency will be assessed and measured with the use of diagnostic testing, curriculum related benchmarks, and SC standardized tests.

Please note: This objective focuses on increasing learning opportunities for students that sometimes "fall through the cracks." Students requiring an IEP will already have appropriate individualized benchmarks, supports, and instructional strategies documented in their IEP for the faculty and staff to follow.

Strategies include:

- Teachers, administrators, guidance counselors, families, volunteers, and students themselves will work together to identify the supports, instructional strategies, and resources needed to ensure each child can succeed. A critical part of the mission of the school is to be developmentally responsive for each child.
- Teachers and students will work together to identify attainable benchmarks and academic goals. With some students entering school with skills far below grade level, CCSMS will develop measures of individual student growth beyond the AYP scores at the end of the year.
- Use of differentiated instruction, with no "tracking" of students, will allow students to build on essential skills utilizing classroom strategies that are proven to have a strong effect on student achievement, such as those in *Classroom Instruction that Works* by Marzano, Pickering, and Pollock. (2001)
- Providing teacher training and professional development that supports high student achievement for all students.
- Ensuring teachers have the resources and planning time to support student achievement.

Objective 3.2.

Each school year, 100% of students will develop individual steps towards their academic and career goals and will assess their own progress which will lead to each student taking responsibility for their education and increasing their own learning opportunities.

Assessment: Guidance counselors, teachers, and the students themselves will track individual student developed goals as documented in student self assessments and Individual Graduation Plans. Students will demonstrate and document their individual academic progress during each school year by actively participating in various methods of assessment to develop comprehensive, multi-dimensional, developmentally responsive measures of individual student achievement. Student progress will be assessed with the review of the Individual Graduation Plan requirements, use of guidance counselor designed rubrics, and student portfolios.

Strategies include:

- Students will be encouraged to take responsibility for and ownership of their education throughout all aspects of the school. By documenting their own individual benchmarks throughout the school year, students gain a sense of ownership, pride, and understanding of the process.
- Teachers will involve students in dialogue about CCSMS's diverse assessment systems and students will gain an understanding of how the assessments are used to improve student learning and academic progress.

- Students in grades 8 through 12 will work with teachers, guidance counselors, and family members to draft and refine their Individual Graduation Plans with the students identifying steps towards their own individual academic goals and assessing their own progress. The EEDA mandates require meeting just once a year, but CCSMS will go beyond the minimums with students meeting to discuss their Individual Graduation Plans and academic progress throughout the year. Developing Individual Graduation Plans will assist the students in developing connections between their individual academic goals and possible career choices and creating pathways to college and/or technical training.
- Families, also, need to understand the diverse assessment systems utilized by CCSMS to gain a deeper appreciation of their child's strengths and abilities. The school will host parent workshops on various topics related to the social, emotional and educational development of students. Engaging parents, guardians, family members, and community members in supporting student achievement and accomplishing the school's educational goals. Families will be active participants in conferences to discuss student progress.
- As students and their families develop an understanding of post-secondary study as a step to move beyond entry level jobs, they will develop a deeper value of their current educational opportunities.

3. Academic Standards

a. Goals and Standards each student will achieve in each subject area at each grade level (SC academic standards are included when available)**:**

MIDDLE SCHOOL COURSES: Grades 6th – 8th

6th Grade

Math	
	Students will: Number and Operations • Understand numbers, ways of representing numbers, relationships among numbers, and number systems. • Understand meanings of operations and how they relate to one another. • Compute fluently and make reasonable estimates. Algebra • Understand patterns, relations, and functions. • Represent and analyze mathematical situations and structures using algebraic symbols. • Use mathematical models to represent and understand quantitative relationships. • Analyze change in various contexts. Geometry • Analyze characteristics and properties of two- and three-dimensional geometric shapes and develop mathematical arguments about geometric relationships. • Specify locations and describe spatial relationships using coordinate geometry and other representational systems. • Apply transformations and use symmetry to analyze mathematical situations. • Use visualization, spatial reasoning, and geometry modeling to solve problems. Measurement • Understand measurable attributes of objects and the units, systems, and processes of measurement. • Apply appropriate techniques, tools, and formulas to determine measurements. Data Analysis and Probability • Formulate questions that can be addressed with data and collect, organize, and display relevant data to answer them.

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	• Select and use appropriate statistical methods to analyze data. • Develop and evaluate inferences and predictions that are based on data. • Understand and apply basic concepts of probability.
Science	
	6-1: The student will demonstrate an understanding of technological design and scientific inquiry, including process skills, mathematical thinking, controlled investigative design and analysis, and problem solving. **6-2:** The student will demonstrate an understanding of structures, processes, and responses of plants that allow them to survive and reproduce. (Life Science) **6-3:** The student will demonstrate an understanding of structures, processes, and responses of animals that allow them to survive and reproduce. (Life Science) **6-4:** The student will demonstrate an understanding of the relationship between Earth's atmospheric properties and processes and its weather and climate. (Earth Science) **6-5**: The student will demonstrate an understanding of the law of conservation of energy and the properties of energy and work. (Physical Science)
English and Language Arts	
	Reading R1 The student will integrate various cues and strategies to comprehend what he or she reads. R2 The student will use a knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. R3 The student will use a knowledge of semantics, syntax, and structural analysis to determine the meaning of unfamiliar words and read texts with understanding. Writing W1 The student will apply a process approach to writing. W2 The student will write for a variety of purposes. W3 The student will respond to texts written by others. W4 The student will create legible texts. Communications C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. C3 The student will comprehend and analyze information he or she receives from nonprint sources.

	Research RS1 The student will select a topic for exploration. RS2 The student will gather information from a variety of sources. RS3 The student will use a variety of strategies to prepare and present selected information.
Social Studies - Ancient Cultures to 1600	
	6-1: The student will demonstrate an understanding of the transition of humans from nomadic to settled life in the cradles of civilization. 6-2: The student will demonstrate an understanding of life in ancient classical civilizations and their contributions to the modern world. 6-3: The student will demonstrate an understanding of the Middle Ages and the emergence of the nation-states. 6-4: The student will demonstrate an understanding of changing political, social, and economic cultures in Europe, Asia, Africa, and the Americas. 6-5: The student will demonstrate an understanding of the development and the impact of the Renaissance and the Reformation on Europe and rest of the world. 6-6: The student will demonstrate an understanding of the age European exploration and settlement in the New World.

7th Grade

Math	
	Students will: Number and Operations • Understand numbers, ways of representing numbers, relationships among numbers, and number systems. • Understand meanings of operations and how they relate to one another. • Compute fluently and make reasonable estimates. Algebra • Understand patterns, relations, and functions. • Represent and analyze mathematical situations and structures using algebraic symbols. • Use mathematical models to represent and understand quantitative relationships. • Analyze change in various contexts. Geometry • Analyze characteristics and properties of two- and three-dimensional geometric shapes and develop mathematical

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	arguments about geometric relationships. • Specify locations and describe spatial relationships using coordinate geometry and other representational systems. • Apply transformations and use symmetry to analyze mathematical situations. • Use visualization, spatial reasoning, and geometry modeling to solve problems. Measurement • Understand measurable attributes of objects and the units, systems, and processes of measurement. • Apply appropriate techniques, tools, and formulas to determine measurements. Data Analysis and Probability • Formulate questions that can be addressed with data and collect, organize, and display relevant data to answer them. • Select and use appropriate statistical methods to analyze data. • Develop and evaluate inferences and predictions that are based on data. • Understand and apply basic concepts of probability.
Science	
	7-1: The student will demonstrate an understanding of technological design and scientific inquiry, including process skills, mathematical thinking, controlled investigative design and analysis, and problem solving. **7-2:** The student will demonstrate an understanding of the structure and function of cells, cellular reproduction, and heredity. (Life Science) **7-3**: The student will demonstrate an understanding of the functions and interconnections of the major human body systems, including the breakdown in structure or function that disease causes. (Life Science) **7-4**: The student will demonstrate an understanding of how organisms interact with and respond to the biotic and abiotic components of their environment. (Earth Science, Life Science) **7-5:** The student will demonstrate an understanding of the classifications and properties of matter and the changes that matter undergoes. (Physical Science)
English and Language Arts	
	Reading R1 The student will integrate various cues and strategies to comprehend what he or she reads. R2 The student will use a knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. R3 The student will use a knowledge of semantics, syntax, and

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	structural analysis to determine the meaning of unfamiliar words and read texts with understanding. Writing W1 The student will apply a process approach to writing. W2 The student will write for a variety of purposes. W3 The student will respond to texts written by others. W4 The student will create legible texts. Communications C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. C3 The student will comprehend and analyze information he or she receives from nonprint sources. Research RS1 The student will select a topic for exploration. RS2 The student will gather information from a variety of sources. RS3 The student will use a variety of strategies to prepare and present selected information.
Social Studies - Contemporary Cultures: 1600 to the Present	
	7-1: The student will demonstrate an understanding of the colonial expansion of European powers and their impact on world government in the seventeenth and eighteenth centuries. 7-2: The student will demonstrate an understanding of the concept of absolute monarchies and constitutional government in the seventeenth and eighteenth centuries. 7-3: The student will demonstrate an understanding of political, social, and economic upheavals that occurred throughout the world during the age of revolution, from 1770 through 1848. 7-4: The student will demonstrate an understanding of the impact of imperialism throughout the world in the late nineteenth and early twentieth centuries. 7-5: The student will demonstrate an understanding of the causes and effects of world conflicts in the early twentieth century. 7-6: The student will demonstrate an understanding of international developments in the post–World War II world, including the impact of the Cold War on the world. 7-7: The student will demonstrate an understanding of the significant political, economic, geographic, scientific, technological, and cultural changes and advancements that took place throughout the world from the beginning of the twentieth century to the present day.

8th Grade

Math Algebra 1	
	Students will: • use symbolic reasoning to represent mathematical situations, to express generalizations, and to study relationships among quantities; • use functions to represent and model problem situations as well as to analyze and interpret relationships; • set up equations in a wide range of situations and use a variety of methods to solve them; and • use problem solving, representation, reasoning and proof, language and communication, and connections both within and outside mathematics.
Science	
	8-1: The student will demonstrate an understanding of technological design and scientific inquiry, including process skills, mathematical thinking, controlled investigative design and analysis, and problem solving. **8-2:** The student will demonstrate an understanding of Earth's biological diversity over time. (Life Science, Earth Science) **8-3**: The student will demonstrate an understanding of materials that determine the structure of Earth and the processes that have altered this structure. (Earth Science) **8-4**: The student will demonstrate an understanding of the characteristics, structure, and predictable motions of celestial bodies. (Earth Science) **8-5**: The student will demonstrate an understanding of the effects of forces on the motion of an object. (Physical Science) **8-6**: The student will demonstrate an understanding of the properties and behaviors of waves. (Physical Science)
English and Language Arts	
	Reading R1 The student will integrate various cues and strategies to comprehend what he or she reads. Social Studies R2 The student will use a knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. R3 The student will use a knowledge of semantics, syntax, and structural analysis to determine the meaning of unfamiliar words and read texts with understanding. Writing W1 The student will apply a process approach to writing. W2 The student will write for a variety of purposes. W3 The student will respond to texts written by others. W4 The student will create legible texts.

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	Communications C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. C3 The student will comprehend and analyze information he or she receives from nonprint sources. Research RS1 The student will select a topic for exploration. RS2 The student will gather information from a variety of sources. RS3 The student will use a variety of strategies to prepare and present selected information.
Social Studies - South Carolina: One of the United States	
	8-1: The student will demonstrate an understanding of the settlement of South Carolina and the United States by Native Americans, Europeans, and Africans. 8-2: The student will demonstrate an understanding of the American Revolution—the beginnings of the new American nation and South Carolina's part in the development of that nation. 8-3: The student will demonstrate an understanding of the American Civil War—its causes and effects and the major events that occurred during that time. 8-4: The student will demonstrate an understanding of the impact of Reconstruction on the people and government of South Carolina. 8-5: The student will demonstrate an understanding of major social, political, and economic developments that took place in the United States during the second half of the nineteenth century. 8-6: The student will demonstrate an understanding of South Carolina's development during the early twentieth century. 8-7: The student will demonstrate an understanding of South Carolina's economic revitalization during World War II and the latter twentieth century.

Middle School Electives:

Middle School Mini Units – Interdisciplinary Project Based Learning

Pre-teens and teens crave opportunities for personal growth. This kind of exploration allows students to discover who they are and how they are in the world. Through experiential project based learning, students will explore communication, cooperation, concentration, responsibility, decision-making, values identification,

creativity, peer pressure, conflict resolution, and friendships. Students will be encouraged to challenge assumptions they have about the world and each other, accepting each other for face value and respecting those qualities not so obvious. A teacher facilitates the class with health educators, guidance counselors, and other professionals scheduled to lead certain discussions.

Projects in this interdisciplinary class will incorporate: 6th, 7th, and 8th Grade	
▪ Introduction to Career Clusters (see below)	
▪ Health and Safety Education requirements (see below)	
▪ Financial literacy	
▪ Study skills	
▪ Individual learning styles and team work	
▪ Time and project management skills	
▪ Conflict resolution	
▪ Communication skills	
▪ Computer technology skills (demonstrating proficiency in 8th grade in accordance with NCLB)	
Introduction to Career Clusters Standards (2830):	
	• This course is designed to provide middle schools with a course through which to introduce students to career possibilities in the sixteen career clusters adopted by the South Carolina Department of Education. • Students will have an opportunity to explore job tasks and career opportunities in each cluster while gaining an understanding of how careers and the world of work affect individuals and their families and communities. • Through the Middle School Mini Units, all students will have the opportunity to participate in interdisciplinary project based learning to explore the Project Leads the Way high school options and other career cluster options. • Students in 8th grade will develop their Individual Graduation Plans.
Health and Safety Education Standards:	
	1. Students will comprehend health promotion and disease prevention concepts. 2. Students will demonstrate the ability to access valid health information, products, and services. 3. Students will demonstrate the ability to practice behaviors that enhance health and reduce risks. 4. Students will analyze the influence of personal beliefs, culture, mass media, technology, and other factors on health.

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	5. Students will demonstrate the ability to use interpersonal communication skills to enhance health. 6. Students will demonstrate the ability to use goal-setting and decision-making skills to enhance health. 7. Students will demonstrate the ability to advocate for personal, family, and community health.

Other Electives will include:

Art	6th, 7th, and 8th Grade
	• This is a hands-on, project-based class in which students are introduced to a variety of media, techniques, and concepts. Throughout the production process, students relate to works of art, including their own, by discussing use of the Elements and Principles of Design within each piece. Basic drawing, painting, graphic design, and craft skills are explored. • The teacher encourages the students to stretch creative thought processes in order to problem solve, build on knowledge, and further develop fine motor skills. • Students acquire art skills that enable them to make conscious choices of media and techniques for expressive purposes. Students produce works of art that are developed from preliminary ideas and sketches. • They compare and contrast art from different world cultures and investigate how context can influence meaning. Students debate the purposes of art, formulate reasoned responses to meaningful art questions, develop their own criteria for making art judgments, and develop a personal aesthetic. The acquisition of these skills enables students to develop a worldview, placing the discipline of art within a broader context, and relating it to other fields of knowledge. • Students are exposed to the major movements, significant artists, and styles in art. Students learn to distinguish media and methods used in the creation of art. A few select cultures and time periods will be emphasized. This helps to stimulate awareness of the important role that the arts have played in history and their significance in our lives today. • Students engage in several studio assignments that relate to the movements, media, techniques, and specific subject matter studied.
Music	6th, 7th, and 8th Grade
	• The study of music will be tied into the core curriculum and teachers will be encouraged to develop interdisciplinary assignments. • Students focus on the basics of vocal production, music theory and solfege. A music appreciation unit features the music of Edvard Grieg and Modeste Mussorgsky.

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	• Students build on the skills of vocal production, music theory, and solfege presented in the sixth grade music course. A music appreciation unit features music from the Baroque period, covering the lives and music of J.S. Bach and G.F. Handel. • Students build on the basics of vocal production, music theory, and solfege earned in seventh grade music. A music appreciation unit features Classical Music covering the lives and music of W. A. Mozart and Ludwig van Beethoven.
Physical Education	6th, 7th, and 8th Grade
	A physically educated person: • demonstrates competency in many movement forms and proficiency in a few movement forms, • applies movement concepts and principles to the learning and development of motor skills, • exhibits a physically active lifestyle, • achieves and maintains a health-enhancing level of physical fitness, • demonstrates responsible personal and social behavior in physical activity settings, • demonstrates understanding and respect for differences among people in physical activity settings, and • understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

Foreign Language – Middle School:

Foreign Language will be introduced to middle school students. Latin will be offered initially, with option of adding Spanish or another language as the school grows depending on the interests of students and families.

Latin 6th, 7th, and 8th Grade Classical Language Standards:	
	1.1 Students read, understand, and interpret Latin. 1.2 Students use orally, listen to, and write Latin as part of the language learning process. 2.1 Students demonstrate an understanding of the perspectives of Roman culture as revealed in the practices of the Romans. 2.2 Students demonstrate an understanding of the perspectives of Roman

	culture as revealed in the products of Romans. 3.1 Students reinforce and further their knowledge of other disciplines through their study of classical languages. 3.2 Students expand their knowledge through the reading of Latin and the study of ancient culture. 4.1 Students recognize and use elements of the Latin language to increase knowledge of their own language. 4.2 Students compare and contrast their own culture with that of the Greco-Roman world. 5.1 Students use their knowledge of Latin in a multilingual world. 5.2 Students use their knowledge of Greco-Roman culture in a world of diverse cultures.
Spanish 6th, 7th, and 8th Grade Modern Language Standards:	
	1.1 Students engage in conversations, provide and obtain information, express feelings and emotions, and exchange opinions. 1.2 Students understand and interpret written and spoken language on a variety of topics. 1.3 Students present information, concepts, and ideas to an audience of listeners or readers on a variety of topics. 2.1 Students demonstrate an understanding of the relationship between the practices and the perspectives of the cultures studied. 2.2 Students demonstrate an understanding of the relationship between the products and perspectives of the cultures studied. 3.1 Students reinforce and further their knowledge of other disciplines through the foreign language. 3.2 Students acquire information and recognize the distinctive viewpoints that are only available through the foreign language and its cultures. 4.1 Students demonstrate understanding of the nature of language through comparisons of the language studied and their own. 4.2 Students demonstrate understanding of the concept of culture through comparisons of the cultures studied and their own. 5.1 Students use the language both within and beyond the school setting.

HIGH SCHOOL COURSES - Grades 9, 10, 11, and 12

CCSMS Advisory Seminar

All High School students (grades 9, 10, 11, and 12) will participate in an advisory seminar. Each student will be assigned to a teacher or administrator who will work with the students throughout their tenure at CCSMS. The overarching goal of the advisory seminar is to provide each student with an adult advocate who can facilitate a flow of information between the student, the administration, home, and community. In accordance with South Carolina's Education and Economic Development Act, students will develop Individual Graduation Plans starting in 8th grade and will begin to focus on one career cluster in 9th grade. Students will continue to refine their Individual Graduation Plan through 12th grade as the student's needs and goals change.

Course Content Students will be working in groups, individually, and with their advisor on a variety of assignments, including project based learning. Some of the general topics that will be covered include:	
	• Collaboration and team work • Oral Communication Skills • Study Skills • Individual learning styles • Time and project management skills • Conflict resolution • Portfolio development • Planning for internships/apprenticeships • College Advisement and/or Career planning – refining Individual Graduation Plan • Health and Safety Education requirements (Appropriate Health Educator leads discussion)

	• Financial literacy

9th Grade Courses

Geometry 4121	
	• Geometry is the mathematical study of shapes, their properties, and their relationships. Emphasis is placed on student discovery and exploration and on formulating and defending conjectures. • Geometry includes an in-depth study of reasoning, polygons, congruence, similarity, right triangles, circles, area, volume, and transformations. • Students will use a variety of approaches, such as coordinate, transformational, and axiomatic systems. • They will also develop an appreciation for the connections between geometry and other disciplines such as art and architecture. • Students are expected to use technology throughout the course, particularly interactive, dynamic software.
Algebra 1 4111	
	Algebra 1 will also be available for 9th grade students who did not take Algebra 1 in Eighth grade. These students will take Algebra 1 along with Geometry in 9th grade. In Algebra 1, students will • use symbolic reasoning to represent mathematical situations, to express generalizations, and to study relationships among quantities. • use functions to represent and model problem situations as well as to analyze and interpret relationships. • set up equations in a wide range of situations and use a variety of methods to solve them. • use problem solving, representation, reasoning and proof, language and communication, and connections both within and outside mathematics.
Biology 3221	
	B-1: The student will demonstrate an understanding of how scientific

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	inquiry and technological design, including mathematical analysis, can be used appropriately to pose questions, seek answers, and develop solutions. B-2: The student will demonstrate an understanding of the structure and function of cells and their organelles. B-3: The student will demonstrate an understanding of the flow of energy within and between living systems. B-4: The student will demonstrate an understanding of the molecular basis of heredity. B-5: The student will demonstrate an understanding of biological evolution and the diversity of life. B-6: The student will demonstrate an understanding of the interrelationships among organisms and the biotic and abiotic components of their environments.
English and Language Arts 3011	
	Reading Goal E1 R1 The student will integrate various cues and strategies to comprehend what he or she reads. E1 R2 The student will use knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. E1 R3 The student will apply a knowledge of word analysis strategies to determine the meaning of new words encountered in reading material and use them accurately. *Writing* E1 W1 The student will apply a process approach to writing. E1 W2 The student will write for a variety of purposes. E1 W3 The student will respond to texts written by others. E1 W4 The student will create legible texts. *Communication* E1 C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. E1 C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. E1 C3 The student will comprehend and analyze information he or she receives from nonprint sources. Research E1 RS1 The student will select a topic for exploration. E1 RS2 The student will gather information from a variety of

		sources.
	E1 RS3	The student will use a variety of strategies to prepare and present selected information.
Social Studies Global Studies 3310		
	GS-1:	The student will demonstrate an understanding of life in the classical civilizations and the contributions that these civilizations have made to the modern world.
	GS-2:	The student will demonstrate an understanding of the social, political, geographic, and economic changes that took place in Africa, Asia, Europe, and the Americas from the time of the Byzantine Empire through the Middle Ages.
	GS-3:	The student will demonstrate an understanding of the influence of the Western world in the spread of new ideas that took place from the Renaissance through the eighteenth century.
	GS-4:	The student will demonstrate an understanding of the effects of the economic, geographic, and political interactions that took place throughout the world during the nineteenth century.
	GS-5:	The student will demonstrate an understanding of the effects of economic, geographic, and political interactions that took place throughout the world during the early twentieth century.
	GS-6:	The student will demonstrate an understanding of the effects of economic, geographic, and political interactions that have taken place throughout the world from the period of the Cold War to the present day.

10th, 11th, and 12th Grades

Mathematics

Algebra 2 4112	
	Algebra 2 course competencies are presented for a one-year traditional or one-semester block course that meets the state Algebra 2 standards. Algebra 2 contains an in-depth study of functions, patterns, relations, and concepts of number systems. This includes linear,

	quadratic, exponential, absolute value, radical, and rational functions. Conic sections are also addressed. The course consists of • the identification of appropriate domains and ranges of functions; • the collection and organization of data, recording results, and graphical representations; • the use of symbolic reasoning to represent algebraic situations; • the expansion of functions for mathematical modeling to develop a versatile and powerful means for analyzing and describing their world; and the understanding of properties that govern the use of symbols in expressions, equations, and inequalities.
Pre-calculus 4131	
	• Pre-calculus is a program of mathematical studies focusing on the development of the student's ability to understand and apply the study of functions and advanced mathematics concepts to solve problems. • The course will include an in-depth study of polynomial, rational, exponential, logarithmic, and trigonometric functions. Other topics studied are sequences, series, vectors, conic sections, parametric equations, and polar curves. • Emphasis is placed on active participation through modeling, technology lab activities, group activities, and communication in mathematics.

Calculus AP-AB 4170	
	• Calculus involves the continued study of functions, rates, and accumulation. • Calculus AB is a course in single-variable calculus that includes techniques and applications of the derivative, techniques and applications of the definite integral, and the Fundamental Theorem of Calculus. • Algebraic, numerical, and graphical representations are emphasized throughout the course.
Probability, Statistics, and Data Analysis 4141	
	Students learn the fundamental principles of probability and statistics and apply these principles to data analysis. Students are expected to utilize scientific calculators, graphing calculators, and/or computer software throughout the year. Teachers should encourage their students to utilize the skills emphasized in this course through projects, investigations, case studies, and other appropriate methods. Students will • work with a set of data to perform statistical analyses and summarize the results. • examine ways to organize and display data to draw conclusions about relationships that may exist in the data set. • describe and summarize data numerically using central tendency, variation, and position statistics. • describe and summarize data numerically using distributions.

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	• utilize statistical applications to solve a wide variety of problems from agriculture, biology, business, economics, education, psychology, engineering, medicine, sociology, and computer sciences. • use counting methods and probability formulas to evaluate the likelihood of events occurring; and apply probability and statistical tests as decision-making tools in hypothesis-testing applications.

Science

Chemistry 3231	May be offered as an AP course.
	C-1: The student will demonstrate an understanding of how scientific inquiry and technological design, including mathematical analysis, can be used appropriately to pose questions, seek answers, and develop solutions. **C-2:** Students will demonstrate an understanding of atomic structure and nuclear processes. **C-3:** The student will demonstrate an understanding of the structures and classifications of chemical compounds. **C-4:** The student will demonstrate an understanding of the types, the causes, and the effects of chemical reactions. **C-5:** The student will demonstrate an understanding of the structure and behavior of the different phases of matter. **C-6:** The student will demonstrate an understanding of the nature and properties of various types of chemical solutions.
Physics 3241	May be offered as an AP course.
	P-1: The student will demonstrate an understanding of how scientific inquiry and technological design, including mathematical analysis, can be used appropriately to pose questions, seek answers, and develop solutions. **P-2:** The student will demonstrate an understanding of the principles of force and motion and relationships between them. **P-3:** The student will demonstrate an understanding of the

	conservation, transfer, and transformation of mechanical energy. **P-4:** The student will demonstrate an understanding of the properties of electricity and magnetism and the relationships between them. **P-5:** The student will demonstrate an understanding of the properties and behaviors of mechanical and electromagnetic waves. ***At least two* of physics standards 6 through 10 must be taught in addition to standards 1 through 5.** **P-6:** The student will demonstrate an understanding of the properties and behaviors of sound. **P-7:** The student will demonstrate an understanding of the properties and behaviors of light and optics. **P-8:** The student will demonstrate an understanding of nuclear physics and modern physics. **P-9:** The student will demonstrate an understanding of the principles of fluid mechanics. **P-10:** The student will demonstrate an understanding of the principles of thermodynamics.
Marine Science	3225
	• Designed to meet the needs of the student who wishes to obtain an in-depth awareness of coastal and marine systems. • The course will include a study of the physical, chemical, and geological aspects of oceanography, marine biology, the coastal environment, and the interrelationships among the disciplines.
Earth Science	3265
	ES-1: The student will demonstrate an understanding of how scientific inquiry and technological design, including mathematical analysis, can be used appropriately to pose questions, seek answers, and develop solutions. **ES-2:** Students will demonstrate an understanding of the structure and properties of the universe. **ES-3:** Students will demonstrate an understanding of the internal and external dynamics of solid Earth. **ES-4:** The student will demonstrate an understanding of the dynamics of Earth's atmosphere. **ES-5:** The student will demonstrate an understanding of Earth's freshwater and ocean systems. **ES-6:** Students will demonstrate an understanding of the dynamic relationship between Earth's conditions over geologic time and the diversity of its organisms.
Advanced	**3277**

Placement Environmental Science	
	• The goal of the AP Environmental Science course is to provide students with the scientific principles, concepts, and methodologies required to understand the interrelationships of the natural world, to identify and analyze environmental problems both natural and human-made, to evaluate the relative risks associated with these problems, and to examine alternative solutions for resolving and/or preventing them.

English and Language Arts

English and Language Arts (ELA)must be taken all four years in high school. There will be a high level of focus on non-fiction technical writing and communication skills. With an emphasis on interdisciplinary connections some writing assignments will originate in other classes and be processed and edited in a workshop-seminar setting during English and Language Arts Class. Oral Communication skills will also be honed in presentations and exhibitions from work assignments in other courses. Authentic research will be completed.

ELA 2 3012	10th Grade
	Reading Goal E2 R1 The student will integrate various cues and strategies to comprehend what he or she reads. E2 R2 The student will use knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. E2 R3 The student will apply a knowledge of word analysis strategies to determine the meaning of new words encountered in reading material and use them accurately. *Writing* E2 W1 The student will apply a process approach to writing. E2 W2 The student will write for a variety of purposes. E2 W3 The student will respond to texts written by others. E2 W4 The student will create legible texts.

	Communication E2 C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. E2 C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. E2 C3 The student will comprehend and analyze information he or she receives from nonprint sources. Research E2 RS1 The student will select a topic for exploration. E2 RS2 The student will gather information from a variety of sources. E2 RS3 The student will use a variety of strategies to prepare and present selected information.
ELA 3 3013	11th Grade
	Reading Goal E3 R1 The student will integrate various cues and strategies to comprehend what he or she reads. E3 R2 The student will use knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. E3 R3 The student will apply a knowledge of word analysis strategies to determine the meaning of new words encountered in reading material and use them accurately. Writing E3 W1 The student will apply a process approach to writing. E3 W2 The student will write for a variety of purposes. E3 W3 The student will respond to texts written by others. E3 W4 The student will create legible texts. Communication E3 C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. E3 C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. E3 C3 The student will comprehend and analyze information he or she receives from nonprint sources. Research E3 RS1 The student will select a topic for exploration. E3 RS2 The student will gather information from a variety of sources. E3 RS3 The student will use a variety of strategies to prepare and present selected information.

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ELA 4 3014	12th Grade
	Reading Goal E4 R1 The student will integrate various cues and strategies to comprehend what he or she reads. E4 R2 The student will use knowledge of the purposes, structures, and elements of writing to analyze and interpret various types of texts. E4 R3 The student will apply a knowledge of word analysis strategies to determine the meaning of new words encountered in reading material and use them accurately. Writing E4 W1 The student will apply a process approach to writing. E4 W2 The student will write for a variety of purposes. E4 W3 The student will respond to texts written by others. E4 W4 The student will create legible texts. Communication E4 C1 The student will use speaking skills to participate in large and small groups in both formal and informal situations. E4 C2 The student will use listening skills to comprehend and analyze information he or she receives in both formal and informal situations. E4 C3 The student will comprehend and analyze information he or she receives from nonprint sources. Research E4 RS1 The student will select a topic for exploration. E4 RS2 The student will gather information from a variety of sources. E4 RS3 The student will use a variety of strategies to prepare and present selected information.

Social Studies

United States History and the Constitution 3320	
	USHC-1: The student will demonstrate an understanding of the settlement of North America. USHC-2: The student will demonstrate an understanding of the establishment of the United States as a new nation. USHC-3: The student will demonstrate an understanding of the

		westward movement and the resulting regional conflicts that took place in America in the nineteenth century.
	USHC-4:	The student will demonstrate an understanding of the causes and the course of the Civil War and Reconstruction in America.
	USHC-5:	The student will demonstrate an understanding of major social, political, and economic developments that took place in the United States during the second half of the nineteenth century.
	USHC-6:	The student will demonstrate an understanding of foreign developments that contributed to the United States' emergence as a world power in the twentieth century.
	USHC-7:	The student will demonstrate an understanding of the economic boom-and-bust in America in the 1920s and 1930s, its resultant political instability, and the subsequent worldwide response.
	USHC-8:	The student will demonstrate an understanding of the impact of World War II on United States' foreign and domestic policies.
	USHC-9:	The student will demonstrate an understanding of the social, economic, and political events that impacted the United States during the Cold War era.
	USHC-10:	The student will demonstrate an understanding of developments in foreign policy and economics that have taken place in the United States since the fall of the Soviet Union and its satellite states in 1992.
Economics 3350		
	ECON-1:	The student will demonstrate an understanding of how scarcity and choice impact the economic activity of individuals, families, communities, and nations.
	ECON-2:	The student will demonstrate an understanding of markets and the role of supply and demand in determining price and resource allocation.
	ECON-3:	The student will demonstrate an understanding of the sources of income and growth in a free-enterprise economy.
	ECON-4:	The student will demonstrate an understanding of personal economic decision making to maximize the net benefits of personal income.
	ECON-5:	The student will demonstrate an understanding of the various economic institutions of a market economy.

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	ECON-6:	The student will demonstrate an understanding of the roles that federal, state, and local governments play in the operation of markets in the United States.
	ECON-7:	The student will demonstrate an understanding of the national economy and economic policies in the United States.
	ECON-8:	The student will demonstrate an understanding of the principles of trade and economic development.
United States Government 3330		
	USG-1:	The student will demonstrate an understanding of the United States government—its origins and its functions.
	USG-2:	The student will demonstrate an understanding of the foundations of the American republic—its basic democratic principles and its political systems.
	USG-3:	The student will demonstrate an understanding of the continuing role of the United States Constitution in the defining and shaping of American government and society.
	USG-4:	The student will demonstrate an understanding of the United States' relations with other nation-states and its role in world affairs.
	USG-5:	The student will demonstrate an understanding of the concept of personal and civic rights and responsibilities and the role of the citizen in American democracy.

CAREER PATHWAYS – CCSMS CAREER CLUSTERS

CCSMS will offer the following Career Clusters, initially:

- Engineering and Architecture
- Biomedical Sciences
- Business and Entrepreneurship
- *Education – Teaching Math and Science*
- Math, Science, and Technology Career Exploration

The State's current definition of a career cluster consists of a grouping of occupations and broad industries based on commonalties. More Career Clusters will be

developed at CCSMS as the school grows and student interests evolve. CCSMS will revise these career clusters if the State adopts changes to the Education and Economic Development Act or related issues.

Career Cluster teachers will participate in regional and national trainings and professional development to ensure courses meet programmatic requirements and promote high student achievement.

❖ ***Engineering and Architecture Career Cluster***

Foundation Courses:
• **Principles of Engineering** 6050- A course that helps students understand the field of engineering/engineering technology. Exploring various technology systems and manufacturing processes help students learn how engineers and technicians use math, science and technology in an engineering problem solving process to benefit people. The course also includes concerns about social and political consequences of technological change.
• **Digital Electronics** 6052- A course in applied logic that encompasses the application of electronic circuits and devices. Computer simulation software is used to design and test digital circuitry prior to the actual construction of circuits and devices.
• **Introduction to Engineering Design** 6051- A course that teaches problem-solving skills using a design development process. Models of product solutions are created, analyzed and communicated using solid modeling computer design software. In NYS, Circuit test the course is called Design and Drawing for Production and follows the syllabus developed by the State Education Department.
Specialization Courses:
• **Computer Integrated Manufacturing** 6053- A course that applies principles of robotics and automation. The course builds on computer solid modeling skills developed in Introduction to Engineering Design, and Design and Drawing for Production. Students use CNC equipment to produce actual models of their three-dimensional designs. Fundamental concepts of robotics used in automated manufacturing, and design analysis are included.
• **Civil Engineering and Architecture** 6058- This course provides an overview of the fields of Civil Engineering and Architecture, while emphasizing the interrelationship and dependence of both fields on each other. Students use state

of the art software to solve real world problems and communicate solutions to hands-on projects and activities. This course covers topics such as: o The Roles of Civil Engineers and Architects o Project Planning o Site Planning o Building Design o Project Documentation and Presentation
• **Aerospace Engineering** 6056 - Through hands-on engineering projects developed with NASA, students learn about aerodynamics, astronautics, space-life sciences, and systems engineering (which includes the study of intelligent vehicles like the Mars rovers Spirit and Opportunity).
• **Biotechnical Engineering** 6057- Relevant projects from the diverse fields of bio-technology, bio-engineering, bio-medical engineering, and bio-molecular engineering enable students to apply and concurrently develop secondary-level knowledge and skills in biology, physics, technology, and mathematics.
Capstone Course:
• **Engineering Design and Development** 6054- An engineering research course in which students work in teams to research, design and construct a solution to an open-ended engineering problem. Students apply principles developed in the four preceding courses and are guided by a community mentor. They must present progress reports, submit a final written report and defend their solutions to a panel of outside reviewers at the end of the school year.

❖ ***Biomedical Sciences Career Cluster***

Biomedical Sciences Project Lead the Way
Course Descriptions:
Principles of the Biomedical Sciences
• This course provides an introduction to the biomedical sciences through exciting "hands-on" projects and problems. • Student work involves the study of human medicine, research processes and an introduction to bio-informatics. • Students investigate the human body systems and various health conditions including heart disease, diabetes, sickle-cell disease, hypercholesterolemia, and infectious diseases. • A theme through the course is to determine the factors that led to the death of a fictional person. After determining the factors responsible for the death, the

students investigate lifestyle choices and medical treatments that might have prolonged the person's life. • Key biological concepts including: homeostasis, metabolism, inheritance of traits, feedback systems, and defense against disease are embedded in the curriculum. Engineering principles including: the design process, feedback loops, fluid dynamics, and the relationship of structure to function are incorporated in the curriculum where appropriate. • The course is designed to provide an overview of all the courses in the Biomedical Sciences program and to lay the scientific foundation necessary for student success in the subsequent courses.
Human Body Systems
• The human body is a complex system requiring care and maintenance. • This course will engage students in the study of basic human physiology, especially in relationship to human health. Students will use a variety of monitors to examine body systems (respiratory, circulatory, and nervous) at rest and under stress, and observe the interactions between the various body systems. • Students will use software to design and build systems to monitor body functions.
Medical Intervention
• Medical practice includes interventions to support humans in treating disease and maintaining health. • Student projects will investigate various medical interventions that extend and improve quality of life, including gene therapy, pharmacology, surgery, prosthetics, rehabilitation, and supportive care. • Students will study the design and development of various medical interventions including vascular stents, cochlear implants, and prosthetic limbs. They will review the history of organ transplants and gene therapy, and read current scientific literature to be aware of cutting edge developments. • Using 3-D imaging software and current scientific research students will design and build a model of a therapeutic protein.
Science Research
• This capstone course gives student teams the opportunity to work with a mentor, identify a science research topic, conduct research, write a scientific paper, and defend team conclusions and recommendations to a panel of outside reviewers. • Each team will have one or more mentors from the scientific and/or medical

community guiding their scientific research.

- This course may be combined with the capstone course from the pre-engineering pathway, allowing students from both pathways to work together to engineer a product that could impact healthcare.

❖ ***Business and Entrepreneurship Career Cluster***

Virtual Enterprise 1, 2, 3, and 4 (5150, 5151, 5152, 5153)

- Virtual Enterprise is part of a national curriculum called Virtual Enterprises International and the South Carolina Virtual Enterprises Network that allows students to experience within a simulated business environment all facets of being an employee in a firm. http://www.veinternational.org)
- The program allows students to run simulated offices in their schools and engage in virtual trading with other practice firms. Currently, more than 3,600 virtual enterprises in over thirty-six countries are part of the International Practice Enterprise Network.
- The program provides students with interdisciplinary instruction and an in-school work experience to develop school-to-career skills.

Entrepreneurship (5400)

This course is designed to provide students with the knowledge and skills leading to the development of a business plan for small business ownership. An important part of the course will be the incorporation of marketing, staffing, and financial considerations.

(Evaluation will include assessment of a business plan portfolio that incorporates all of the components in the standards listed below.)

The student will be able to:

- Name and describe the parts of a business plan.
- Discuss the purposes of creating a business plan.
- Select a business opportunity based on research.
- Identify industry trends, competition, and market segment using various research techniques.
- Define the industry characteristics, major competitors, and market segment.
- Determine the marketing mix (product, price, place, and promotion).
- Select an appropriate location.
- Design the physical layout.
- Estimate the cost of equipment, supplies, and inventory.
- Develop an organizational chart.
- Write job descriptions for every job.
- Describe various recruitment techniques.
- Identify components of an employee manual.
- Prepare a management plan (incorporate legal requirements, business protection, and operations).

• Prepare a pro forma budget. • Read and interpret financial statements (balance sheet, income statement, cash flow projections, and summary of sales and cash receipts). • Complete a pro income statement and balance sheet. • Estimate start-up costs and projected living expenses for one year and determine the funding needed to begin the business using the pro forma income statement.
International Business and Marketing (5032) This course is designed to provide students with: • a basic understanding of international business operations • the economic and cultural concepts of domestic and international business
Professional and Leadership Development (5178) • The purpose of this course is to help students develop leadership skills necessary for success in business careers through effective communications, problem-solving techniques, and managing resources and meetings. • The students will develop an understanding of the need for community service as part of their overall civic and professional responsibilities.
Accounting 1 (5001) This course is designed to help the student: • develop the skills necessary for the highly technical interaction between accounting and business • develop an understanding of the steps of the accounting cycle as applied to several different kinds of business operations • develop an understanding of accounting concepts, principles, and practices.
Business Computer Mathematics (5047) This course is designed to teach students: • how to learn and apply mathematics in business and business-related activities using both manual and computerized calculations. • to use spreadsheet software • to solve problems related to checking and savings accounts, • to identify various business expenses: rent, maintenance/improvement, equipment, utilities, professional services, depreciation, etc. • Prepare financial statements

❖ ***Education – Teaching Math and Science Career Cluster***

CCSMS will develop a Teacher Cadet Program at the school. The primary goal of the Teacher Cadet Program is to encourage academically able students who possess

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exemplary interpersonal and leadership skills to consider teaching as a career. An important secondary goal of the Program is to provide these talented future community leaders with insights about teachers and schools so that they will be civic advocates of education.

The Teacher Cadet Program is an innovative approach designed to attract talented young people to the teaching profession through a challenging introduction to teaching. The program seeks to provide high school students insight into the nature of teaching, the problems of schooling and the critical issues affecting the quality of education in America's schools.

In order to meet the increasing shortages of skilled teachers in such critical areas as math and science, the Teacher Cadet Program has created and adopted programs to encourage students to become interested in teaching in these critical subject areas. The SAY (Science and Youth) and MAY (Math and Youth) curriculums have been developed and adapted by creative and talented Teacher Cadet instructors in the program for use with peer lessons, field experiences and academic fairs. Interactive lessons interest students in these critical subjects.

The college credit course is taught for a minimum of one class period per day for a year or the equivalent of that amount of time in contact hours. The Teacher Cadet program is not a club.

The Teacher Cadet Curriculum:
• *Experiencing Education*, written and revised by South Carolina's Teacher Cadet instructors, with an accompanying *Instructors' Manual*
• Supplemental curriculum for science and math
• A variety of hands-on activities and a strong emphasis on observations, field

experiences
• Three themes: Experiencing the Learner, Experiencing the Profession, Experiencing the Classroom

❖ ***Math, Science, and Technology Exploration Career Cluster***

This career cluster will offer students a broad exploration of careers involving Math and Science including but not limited to marine sciences, environment and natural resources, mathematics, computer science, and related fields of study.

Students will develop Individual Graduation Plans according to the Education and Economic Development Act reflecting their interests and academic goals. Students in this Career Cluster will select from the other Career Clusters, Academic Courses, and electives to build a rigorous and relevant selection of classes preparing them for college and/or careers.

HIGH SCHOOL ELECTIVES:

Foreign Language

Initially, CCSMS will offer high school students Foreign Language instruction in Spanish and French. As the school grows other languages will be introduced based on student interest and academic requirements. Students will also be able to pursue other languages via distance learning options and through the local colleges.

Spanish	
Spanish 1	3651
Spanish 2	3652
Spanish 3	3653
Spanish	3675

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AP	
Modern Language Standards:	
	1.1 Students engage in conversations, provide and obtain information, express feelings and emotions, and exchange opinions. 1.2 Students understand and interpret written and spoken language on a variety of topics. 1.3 Students present information, concepts, and ideas to an audience of listeners or readers on a variety of topics. 2.1 Students demonstrate an understanding of the relationship between the practices and the perspectives of the cultures studied. 2.2 Students demonstrate an understanding of the relationship between the products and perspectives of the cultures studied. 3.1 Students reinforce and further their knowledge of other disciplines through the foreign language. 3.2 Students acquire information and recognize the distinctive viewpoints that are only available through the foreign language and its cultures. 4.1 Students demonstrate understanding of the nature of language through comparisons of the language studied and their own. 4.2 Students demonstrate understanding of the concept of culture through comparisons of the cultures studied and their own. 5.1 Students use the language both within and beyond the school setting.
French	
French 1	3611
French 2	3612
French 3	3613
French AP	3671
Modern Language Standards:	
	1.1 Students engage in conversations, provide and obtain information, express feelings and emotions, and exchange opinions. 1.2 Students understand and interpret written and spoken language on a variety of topics. 1.3 Students present information, concepts, and ideas to an audience of listeners or readers on a variety of topics. 2.1 Students demonstrate an understanding of the relationship between the practices and the perspectives of the cultures studied. 2.2 Students demonstrate an understanding of the relationship between the products and perspectives of the cultures studied. 3.1 Students reinforce and further their knowledge of other disciplines through the foreign language. 3.2 Students acquire information and recognize the distinctive viewpoints that are only available through the foreign language and its cultures. 4.1 Students demonstrate understanding of the nature of language through comparisons of the language studied and their own. 4.2 Students demonstrate understanding of the concept of culture through

	comparisons of the cultures studied and their own. 5.1 Students use the language both within and beyond the school setting.

Physical Education - High School
Standards ***A physically educated person:*** **1:** demonstrates competency in many movement forms and proficiency in a few movement forms, **2:** applies movement concepts and principles to the learning and development of motor skills, **3:** exhibits a physically active lifestyle, **4:** achieves and maintains a health-enhancing level of physical fitness, **5:** demonstrates responsible personal and social behavior in physical activity settings, **6:** demonstrates understanding and respect for differences among people in physical activity settings, and **7:** understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

Computer Programming 1	5050
Computer Programming 2	5051
• These courses are designed to emphasize the fundamentals of computer programming. • Topics include computer software, program design and development, and practical experience in programming, using modern, object-oriented languages.	
Web Page Design and Development 1	5031
• This course is designed to provide the student with the knowledge and skills needed to design Web pages. • Students will develop skills in designing, implementing, and maintaining a Web site using authoring tools.	
Art 1 – Introduction to Art	3501

• The course content includes concentration in the major areas of critical analysis, creative expression and production, cultural heritage and aesthetic perception. • Students will study the elements and principles of design focusing mainly on 2-dimensional art making processes. • Major artists, periods and styles will be studied. • Students will learn to critically assess a variety of products.	
Art II – 3-Dimensional Design: Sculpture and Ceramics	3502
• This course explores 3-dimensional art using both additive and subtractive sculptural processes. • It will involve instruction using a variety of media such as clay, plaster, wood and metal. • The course content includes study in the areas of critical analysis, creative expression, cultural heritage and aesthetic perception.	
Music Appreciation	3561
• The course is designed to develop students' abilities to recognize various musical forms and genres, identify periods of music, know the cultural and historical background of a representative sampling of music, recognize a representative sample of compositions, composers and performers and critically analyze music and music performance with insight and understanding.	

WINTER SEMESTER

At CCSMS, Winter Semester will be a time for students to explore math and science through interdisciplinary extended learning opportunities. The three weeks will be broken up into curriculum and standards related hands-on learning opportunities, including field trips, extra academic support, internships, and individual enrichment activities.

Students, faculty, staff, parents, and community members will come together to participate in major interdisciplinary Project Based Learning Opportunities.

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Example of Winter Semester Projects

UrbanPlan:
UrbanPlan is an academically challenging, classroom-based, study unit in which teams of students compete to land the redevelopment contract for the decaying district of Elmwood over three weeks. Students take on real-life roles of: • site planner • financial analyst • marketing director • neighborhood-to-city liaison • community members Team members learn firsthand the nitty-gritty intricacies of urban renewal. Because the goal is to make a profit in the process, there are also some hardcore lessons in financial reality. "It's a balancing act in real time under real-world conditions," says Paula Blasier, director of San Francisco-based UrbanPlan. The program was developed by the Urban Land Institute (ULI), based in Washington, DC, and the Fisher Center for Real Estate and Urban Economics, at the University of California, Berkeley, with input from high school government and economics teachers. "The kids stand in the shoes of people who have conflicting interests -- the architects, finance people, and developers. And they have to come up with a design plan that takes into account the concerns of all the stakeholders while delivering a decent return on capital to their investors and the city," says Blasier. This goal requires the students to address such diverse issues as affordable housing, transit needs, open-space beautification, historical preservation, and the district's retail requirements. Each team member researches an assigned area, then reports to the group. Once a project plan is hammered out on laptops, the teams construct a preliminary model of their design out of Legos and then go before a "city council" of volunteer land-use professionals to pitch their project. After a detailed grilling, students tweak their product for a final presentation. The "contract" is awarded to the students who produce the most responsive and compelling vision for Elmwood.

The Winter Semester may have overall themes for the entire school to participate in. Students and faculty will be responsible for developing varying options each year based on student interests and available resources.

For High School Students to earn Carnegie Unit Credits, teachers will develop courses to be approved by the local school board and the state through the Innovative

Instructional Activities provisions. One unit of credit is granted for the satisfactory completion of an approved course in which a student attends at least 120 hours of instruction, one-half unit is granted for 60 hours, and one-fourth unit is granted for 30 hours.

b.

CCSMS faculty and staff will work with state officials and the Charleston County School District to ensure that the school's instructional program meets or exceeds the student academic standards adopted by the State Board of Education. CCSMS teachers will be fully cognizant of the state's Academic Standards for the applicable grades (http://ed.sc.gov/agency/offices/cso/).

The goals for each subject area listed in D.3.a. have been drafted from the State's current Academic Standards when available and will be updated in the future to correspond to any changes adopted by the State. The Charter Committee has worked with the State Department of Education staff to further ensure that the curriculum will meet or exceed the student academic standards adopted by the State Board of Education.

Prior to the beginning of every academic year the Board, principal, and staff will review course curriculum and work with the State to revise and update any changes that need to be made to ensure the school is meeting or exceeding the most recent student academic standards adopted by the State Board of Education.

c.

CCSMS will determine whether all students are achieving and attaining the academic standards through various assessment strategies extensively outlined in

Section E. Student Assessment. Student progress and performance information will be gathered and monitored throughout the school year. These methods will include, but not be limited to:

- Pre-testing: assists the teacher in effectively planning for teaching and learning and provides benchmark data. Students can use this data in their self assessments.
- Student Self Assessment: students set goals and track progress with teacher's assistance. Individual Graduation Plans mandated in the SC Education and Economic Development Act will be part of this assessment.
- Student Portfolio: an evolving collection of student work documenting individual student progress.
- Rubrics: Teachers follow students' understanding of concepts through classroom observation. Students can use this data in their self assessments.
- Curriculum Related Tests: includes traditional classroom tests such as multiple choice, short written responses, and essays. Students can use this data in their self assessments. These assessments will be tied to the academic standards where applicable.
- Authentic Assessment, also known as performance assessment: students demonstrate their use of knowledge and skills. Students can use this in their self assessments.
- State Standardized Tests: including PACT for the middle school grades and end of course in high school.

4. **Instructional Program**

a.

CCSMS academic year will reflect the same beginning and ending dates as those adopted by CCSD annually with a minimum of 180 instructional days and 6 hours of instruction.

Annual School Calendar (draft – final calendar will be approved each year reflecting the calendar adopted by CCSD)

Fall Semester: August – December, 16-17 weeks

Winter Seminars – January, a three week time period of extensive interdisciplinary projects, extended field trips, academic enrichment work, and internships.

Spring Semester: End of January – June, 16-17 weeks

Draft 2008-2009 School Year based on current CCSD Calendars:

Fall Semester		
Aug. 20	Wed.	**First day for students**
Sept. 1	Mon.	Holiday/Labor Day – Schools and Offices Closed
Nov. 26-28	Wed.-Fri.	Holiday/Thanksgiving – School Closed
Dec. 19th	Fri.	End of 1st Semester
Dec. 22 - Jan. 2	Mon. – Fri.	Winter Break –School Closed
Winter Semester		
Jan. 5	Mon.	Students return
Jan. 19	Mon.	Holiday/Martin Luther King, Jr. Day-Schools Closed
Jan. 23	Fri.	End of Winter Semester
Spring Semester		
Jan. 26	Mon.	Students begin Spring Semester
Feb. 16	Mon.	Holiday/Presidents' Day – School Closed
April 6-10	Mon. – Fri.	Spring Break – School Closed
June 5	**Fri.**	**Last Student Day – minimum of 180 days** - to be determined by teacher workdays and Inclement Weather Make-up Days

Teacher Workdays will be determined by the Principal each year to best support the academic achievement of the students. The CCSMS will be closed or have a delayed start time due to inclement weather when CCSD determines it is necessary.

Daily Schedule

Because the school will be serving the entire county and we must account for travel time, the typical school day will most likely run from about 9 am to 3:30 pm. We assume many children will arrive at school before then to take advantage of the breakfast program and will stay after school to participate in the myriad of activities. So the full school day may include 6:30 am to 6 pm – accommodating many working and single parents/guardians. CCSMS will strive to meet the needs of Charleston County's families, those that live downtown and those that will be commuting, some who will have shifts that start at 7am. Current research shows that eating breakfast and starting the school day later than traditionally scheduled increase student achievement. A later ending of the school day and a comprehensive after school program will reduce juvenile delinquency (the majority of juvenile delinquency occurs between 3 and 6 pm).

The school week incorporates six periods with a specialized Wednesday schedule that ensures time to discuss the current and future project based learning assignments – group and individual, review the past week, and work on project and time management of assignments.

The remainder of the week, there are three periods a day of approximately 1 ½ hours each. Students have ample time to work on projects and teachers are able to present new assignments.

Overview of school's hours, designed to best support student achievement:

- **6:30 am-9 am** School Open to all students. Cafeteria open for a breakfast program for all students and a place where students can meet to work on class projects. Students may have use of the library and can schedule tutoring. CCSMS may partner with other community youth agencies to provide services.
- **9 am – 3:30 pm** – Scheduled classes
- **3:30 pm – 6:00 pm** The school will be open for after school activities: tutoring, athletics, group projects, and library time. Cafeteria opens for after school snacks, meetings, safe place to work on class assignments (homework), and group projects. CCSMS may partner with other community youth agencies to provide services.

Sample Class Schedule:

Wednesday	
Period	**Time**
1	9:00 – 9:55
2	10:00 – 10:55
3	11:00– 11:55
Lunch	12:00 – 12:30
4	12:35–1:30
5	1:35 – 2:30
6	2:35 – 3:30

Monday & Thursday	
Period	**Time**
1	9:00 – 10:30
3	10:35 – 12:05
Lunch	12:10-12:40
Advisory/Research Library/Physical Education	12:45 – 1:50
5	2:00 – 3:30

Tuesday & Friday	
Period	**Time**
2	9:00 – 10:30
4	10:35 – 12:05
Lunch	12:10-12:40
Advisory/Research Library/Physical Education	12:45 – 1:50
6	2:00 – 3:30

b. The strategies and approaches that will be used to enable students to accomplish the curriculum standards.

Instructional Strategies – Constructing Knowledge

With the SC Department of Education Academic Standards fully integrated into the CCSMS curriculum's content, the following table summarizes the Charter Committee's vision of enhancing classroom instruction to engage students. Constructivism emphasizes the importance of the knowledge, beliefs, and skills an individual brings to the experience of learning. It recognizes the construction of new understanding as a combination of prior learning, new information, and readiness to learn. The table is adapted from In Search of Understanding: The Case for Constructivist Classrooms by Jacqueline G. Brooks and Martin G. Brooks (Alexandria, VA: Association for Supervision and Curriculum Development, 1993)

Constructing Knowledge in the Classroom In a Constructivist Classroom...	
→	**Student autonomy and initiative are accepted and encouraged.** By respecting students' ideas and encouraging independent thinking, teachers help students attain their own intellectual identity. Students who frame questions and issues and then go about analyzing and answering them take responsibility for their own learning and become problem solvers.
→	**The teacher asks open-ended questions and allows wait time for responses.** Reflective thought takes time and is often built on others' ideas and comments. The ways teachers ask questions and the ways students respond will structure the success of student inquiry.
→	**Higher-level thinking is encouraged.** The constructivist teacher challenges students to reach beyond the simple factual response. He encourages students to connect and summarize concepts by analyzing, predicting, justifying, and defending their ideas.
→	**Students are engaged in dialogue with the teacher and with each other.** Social discourse helps students change or reinforce their ideas. If they have the chance to present what they think and hear others' ideas, students can build a personal knowledge base that they understand. Only when they feel comfortable enough to express their ideas will meaningful classroom dialogue occur.
→	**Students are engaged in experiences that challenge hypotheses and encourage discussion.** When allowed to make predictions, students often generate varying hypotheses about natural phenomena. The constructivist teacher provides ample opportunities for students to test their hypotheses, especially through group discussion of concrete experiences.
→	**The class uses raw data, primary sources, manipulatives, physical, and interactive materials.** The constructivist approach involves students in real-world possibilities, then helps them generate the abstractions that bind phenomena together.

Classroom assignments will continually work to develop students' time management and project management skills. There will be opportunities for cooperative project based learning to further their communication and team-building skills. Independent projects will allow students to explore their own interests within the curriculum and build on their strengths. In this small school setting, teachers will have

the flexibility to adjust curricular content, lesson plans, and multidisciplinary projects to best support student achievement.

Classroom instruction will challenge students to ask important, intellectual questions and do authentic research. Classroom assignments will challenge students to approach the curriculum as a scientist. They will identify a topic or problem, research the issue, develop a hypothesis, perform tests or complete further research, and draw conclusions.

Teachers at CCSMS will turn state-mandated academic standards into engaging, academically rigorous, and integrated projects that foster active learning, higher order thinking skills and more authentic evaluation of the standards and 21st century skills.

There will be a lead teacher for each core curriculum, math, science, English and language arts, and social studies. The lead teacher will serve as a curriculum specialist in grades 6 through 12. This will provide continuity as students matriculate through the school. All teachers will work together as innovators in identifying multidisciplinary connections in the curriculum and will be scheduled ample planning time during the week to develop quality lesson plans and to collaborate with other teachers. Collaborative planning time for teachers will be crucial to the success of students. Teachers will have the flexibility to set up their classrooms to best fit their lesson plans and project based learning. Instead of rows of desks, classrooms will have tables that can be moved around depending on classroom activities like a conference room. To encourage class discussion, teachers will move tables into horseshoe shape so nobody is looking at the back of someone's head – and nobody can be left out of the discussion. For small group activities small clusters of tables and desks will be arranged.

6th, 7th, and 8th Grade

Team teaching will be utilized in the core subjects of grades 6, 7, and 8th. Teachers will work together identifying student's individual strengths and learning differences. Working collaboratively, teachers will help students develop learning strategies, thus accelerating their progress. Teachers will help students identify their multiple intelligences and how they can best comprehend the curriculum.

In 6th, 7th, and 8th grade, students will explore the life, earth, and physical sciences within the framework of the SC Science Academic Standards. At the same time in math, these middle school students will have an intensive mathematics curriculum that prepares them to be on course for higher level math in high school, including pre-calculus and calculus, guided by the corresponding SC Academic Mathematics Standards. Middle school mathematics will include algebra, geometry, and data analysis. The science and math teachers on each team will work together on interdisciplinary projects and develop joint lesson plans.

9th Grade

The 9th grade will continue to be taught by a team of teachers in the core subjects - math, science, English and language arts, and history. The students in 9th grade will have various educational backgrounds. For the 2008-2009 school year all students will be new to the school. In the subsequent years, approximately 75% of the 9th graders will matriculate from the 8th grade and 25% will be enrolling at the school for the first time. This was determined since there are several schools in the area that end in 8th grade.

In preparation for the academically rigorous classes of 10th, 11th and 12th grades, the 9th grade curriculum will focus heavily on the individual students' skills:

- Math skills – building skills so students can take pre-calculus or calculus before graduation.
- Science skills – including demonstrating uses of prior and newly gained knowledge, lab experience, and authentic research.
- English and Language Arts skills– including oral communications, technical writing skills, and research skills.

10th, 11th, and 12th Grades

In 10th, 11th and 12th grades, students at CCSMS will break from their smaller teams where they acquired the skills needed to handle the rigorous curriculum and begin to explore their interests in-depth through advanced classes and internships in the community. In 1999, a U.S. Department of Education study by Clifford Adelman titled "Answers in the Tool Box" examining the factors which could be used to predict college success – the attainment of the Bachelor's degree, he found, "No matter how one divides the universe of students. . .a high school curriculum of high academic intensity and quality is the factor that contributes to a student's likelihood of completing a college degree." In his study, rigorous high school courses were shown to mitigate the effects of socioeconomic status. Just one AP style course exposes a student to the challenge of college-level course work. The emphasis on critical thinking, study skills, and increased content knowledge prepares a student for college work. (Adelman,1999)

This rigorous high school curriculum will prepare students for success in college. All students at CCSMS will be required to take math and science through 12th grade –

not a requirement at many high schools. Of all pre-college curricula, the highest level of mathematics one studies in secondary school has the strongest continuing influence on the successful completion of a bachelor's degree. Finishing a course beyond the level of Algebra 2 (for example, pre-calculus) more than doubles the odds that a student who enters postsecondary education will complete a bachelor's degree. (Adelman,1999)

Differentiated Instruction and Inclusion

All classes will use differentiated instruction, with no "tracking" of students; allowing students to build on essential skills utilizing classroom strategies that are proven to have a strong effect on student achievement, such as those in *Classroom Instruction that Works* by Marzano, Pickering, and Pollock.(2001)

CCSMS will be an inclusive school working with the School District and various community resources to ensure that we include and effectively educate all students. State Board of Education Regulation 43-220 specifies requirements and procedures for identifying gifted and talented students. CCSMS will meet the needs of the gifted and talented students in an inclusive classroom through differentiated instruction and will be providing all students with opportunities beyond those normally provided by the general school program. The specific requirements for students with special education needs are explained in section 4.d.

Exploration Laboratories

A significant attraction for students and parents will be the school's state of the art laboratories –Chemistry, Biology, Physics, and a Lego Mindstorm Computer Lab. They will not just be science labs, but places of multidisciplinary exploration where students can test theories, research and reenact historic experiments, and create new

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technology. Students will have opportunities to work as teams and individually. Students will develop their critical thinking, technical writing, communication, and public speaking skills.

Integration of Technology

CCMS will comply with the technology requirement of the No Child Left Behind Act ensuring students are technology-literate by the end of eighth grade. Technology skills will be integrated into the school's multidisciplinary curriculum. The library will also provide computers and internet access to all students before, throughout, and after the school day.

CCMS Library

> *"School library media centers can contribute to improved student achievement by providing instructional materials aligned to the curriculum; by collaborating with teachers, administrators and parents; and by extending their hours of operation beyond the school day."*
>
> —"Close Up: NCLB—Improving Literacy through School Libraries," NCLB The Achiever, September 15, 2004, Vol. 3, No 13.

The library will be a gateway for students to do authentic research and pursue high academic achievement. The librarian will be critical in furthering students' research methods and non-fiction writing skills. The library will expand beyond the physical walls, with the librarian opening doors to the vast research and public libraries that Charleston and the universities have to offer. The internet will be another important venue to the world's most current research with the Librarian teaching up to date research methods. The library will be available extended hours of the day – before and after school.

The librarian will participate in curriculum planning and be a leader in the school's efforts to engage students in constructing knowledge. The librarian will guide students in researching and solving problems.

Cafeteria – Linking good nutrition to higher student achievement

With all of the studies linking good nutrition to higher student achievement, math and science will not be left behind when the students enter the Cafeteria. With federal funds for free and reduced lunch students, private donations, and affordable student meal plans, all students will have nutritious options for breakfast, lunch, and after school snacks. The food offered in the cafeteria will be a key ingredient in the success of our students.

With an estimated 37% of students skipping breakfast in the United States, J. Michael Murphy, EdD, School Breakfast Program researcher, of Harvard Medical School, finds school breakfast "a relatively simple intervention that can significantly improve children's academic performance and psychological well-being." His studies have concluded school breakfast programs yield positive results for students:

Benefits of a School Breakfast Program:
▪ Children who skip breakfast are less able to distinguish among similar images, show increased errors, and have slower memory recall.
▪ Behavioral, emotional, and academic problems are more prevalent among children with hunger.
▪ Providing breakfast to mildly undernourished students at school improves their speed and memory in cognitive tests.
▪ Participating in school breakfast is associated with improved math grades, attendance, and punctuality.

Ensuring that every moment is a teachable moment, even in the cafeteria, there will be student created interactive displays, science related art work, and graphic

nutritional information – empowering students to figure out how nutrition helps their brain and body function. Students will make the connections between the cafeteria and the classroom - really bringing science into our students' lives. With the school's multidisciplinary approach, students will help create healthy menus, study the chemical reactions involved in cooking, and study biological processes in the human body.

The cafeteria will play an important role in the school's culture and the academic achievement of students. Modeled after the cafeterias of innovative businesses, such as the SAS institute and Google, students, faculty. volunteers, and parents will gather for healthy meals while discussing projects and ideas.

An after school snack program will be offered. We will apply for federal funds for students who qualify for free and reduced meals. With the anticipated level of after school activities and tutoring, the after school snack program will offer students encouragement to stay at school to continue their learning experiences. Students will be welcome to gather in the cafeteria to work on projects, study together, and hold extra-curricular activity meetings.

Extra-Curricular Activities and Sports

To attract a diverse student body and to further develop the school's culture, CCSMS will develop an athletics program with plans for it to grow with the school over a number of years. Initially, we plan to provide opportunities for both girls and boys to compete in soccer, basketball, volleyball, tennis, and golf. Teams will be coached by parent and community volunteers.

Extra-curricular activities will grow out of the students' interests and passions, initially including an active student government, Lego Mindstorm Competitions, Debate

Team, and Model United Nations. Students interested in pursuing their musical talents will be encouraged to form student groups after school, including Chorus, Band, and Jazz Ensemble.

CCSMS will work with other area schools within the guidelines of the SC Charter School Act to coordinate other opportunities for students in sports and activities not available at CCSMS.

c.

CCSMS plans to offer the South Carolina State High School Diploma with the first graduating class in the 2011-2012 school year. The following table includes the state requirements for the high school diploma, include course unit requirements and passage of the required examinations:

Curriculum Requirements for a South Carolina High School Diploma

(http://ed.sc.gov/agency/offices/SQ/Diploma/)

Each student must earn a total of 24 units of credit in state-approved courses. The unit requirements are distributed as follows:

Subjects	Units Required
English/Language Arts	4.0
Mathematics	4.0
Science	3.0
U.S. History and Constitution	1.0
Economics	0.5
U.S. Government	0.5
Other Social Studies	1.0
Physical Education	1.0

Computer Science	1.0
Foreign Language or Career and Technology Education*	1.0
Electives	7.0
Total †‡	**24**

For a student in a College Prep program to meet the state high school diploma requirements, one unit must be earned in a foreign language (most four-year colleges/universities require at least two years of the same foreign language);

† The student must demonstrate computer literacy before graduation.

‡ Must pass the exit examination.

One unit of credit is granted for the satisfactory completion of an approved course in which a student attends at least 120 hours of instruction, one-half unit is granted for 60 hours, and one-fourth unit is granted for 30 hours. Credit for State Department of Education approved distance learning courses and college classes may be allowed when approved specifically by the principal and written into the students Individual Graduation Plan.

The South Carolina High School Diploma also requires the passage of the required end of course examinations.

CCSMS will view the curriculum requirements for a South Carolina High School Diploma as minimum requirements with students setting specific goals and course pathways in their Individual Graduation Plans. This Individual Graduation Plan is mandated by the state and is developed by the student, family, teachers, and guidance counselors. Each student will have an Individual Graduation Plan starting in 8th or 9th grade depending on when they start at the school. Many colleges and careers require coursework beyond the SC diploma requirements. For example, many students will

have at least 3 years of foreign language built into their course plan with the understanding that it is required by many colleges for admission.

Beyond the SC minimum requirements, all students at CCSMS will take 4 Carnegie units (or the equivalent) of science in high school.

d.

CCSMS will comply with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

i. CCSMS's procedures for identifying students with special needs will include the review of school records and IEP plans for incoming students during the enrollment process, conversations with parents/guardians during the enrollment process, and classroom teachers discussing concerns about individual students with the special education teacher(s).

The classroom teacher(s), special education teacher(s), and school administrator will hold a pre-evaluation planning conference with the parent/guardian and student, when appropriate, to discuss all possible ways to meet the needs of the child. Written parental consent must be obtained before an evaluation is done and the process continues. There is a maximum of 60 days to complete the evaluation process.

The following provides areas that will be assessed if appropriate:

- Vision and Hearing Screening
- Speech/Language Screening or Evaluation
- Social and Emotional Status
- General Intelligence

- Academic Performance
- Motor Abilities
- Other Assessments and Evaluations as determined

The evaluation results will be reviewed to determine eligibility for special education and related services according to state and federal guidelines for qualification. Parents/guardians will receive a formal written report of the evaluation results in accordance will all applicable laws. A declaration of a student's educational status shall not be changed without the knowledge and written approval of the parent/guardian or until the notice and due process procedures have been exhausted.

In accordance with IDEA, an IEP will be developed for every child found eligible for special education services. Members of the IEP team, as defined by IDEA Regulation 300.344, include the child, if appropriate, parents/guardian of the child, and specific school personnel. The IEP will include:

- A statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in general curriculum.
- A statement of measurable annual goals and, for students who take our alternate assessment, benchmarks or short term objectives.
- A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child and a statement of the program modifications or supports for school personnel that will be provided for the child.

- An explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class.
- A statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the child to participate in a particular state or district-wide assessment, a statement of why that assessment is not appropriate for the child, and how the child will be assessed.
- The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.
- A statement of how the child's progress toward the annual goals will be measured; how the child's parents will be regularly informed of their child's progress toward the annual goals and the extent to which the progress is sufficient to enable the child to achieve the goals by the end of the year.
- In addition, for children age 14 and above, transitional needs will be addressed in the IEP process. A coordinated set of strategies will be designed by the IEP team that will promote the movement from school to post-school activities. These strategies will be listed on the IEP.

For students that enroll at CCSMS with an IEP in place, contact will be made with their previous school to ensure the student's needs are included in the updated plan.

ii.

In accordance with IDEA, "children will be treated as individuals with unique abilities and disabilities that need to be addressed by providing unique support services, which are explicitly articulated in the IEP." CCSMS will be an inclusive school working with various community resources to ensure that we include and effectively educate all students. CCSMS will work the CCSD to ensure that a continuum of alternative placements, including inclusive classrooms, is available to meet the needs of students with disabilities for special education and related services and that least restrictive environment (LRE) issues are considered in all placement decisions. CCSMS will ensure that students with disabilities receive a free appropriate public education (FAPE) and will utilize a variety of strategies to address student needs.

All classes will use differentiated instruction, with no "tracking" of students; allowing students to build on essential skills utilizing classroom strategies that are proven to have a strong effect on student achievement, such as those in *Classroom Instruction that Works* by Marzano, Pickering, and Pollock.(2001) The curriculum aligns with the South Carolina Academic Achievement Standards. Modifications will be made to address the unique needs of children with disabilities and will be documented in the IEP. Services will be delivered in the regular classroom as appropriate.

Extensive on-going professional development opportunities for general and special education teachers will help them modify and adapt the curriculum for all children in an inclusive classroom. Teachers will have collaborative

planning time each week to discuss classroom strategies and examine their teaching.

Appropriate special education teachers/staff will be contracted and/or hired depending of the needs of the student population. A psychologist will also be contracted for services as required.

iii.

In accordance with IDEA, the IEP team will determine transitional services for students with disabilities at the age of 14. A coordinated set of strategies will be designed by the IEP team that will promote the movement from school to post-school activities. These strategies will be listed on the IEP.

The need for assisted technology services or devices (e.g. an item, piece of equipment, or product used to increase, maintain, or improve functional capabilities of children with disabilities) will be determined during IEP meetings and listed on the IEP. CCSMS staff will coordinate with the appropriate resources to coordinate the obtainment of the assisted technology services or devices, if necessary.

E. Student Assessment

1. Student Achievement and Progress Evaluation

CCSMS will have an ongoing assessment process with the results used in a timely and proactive manner to address the needs of individual students and the school as a whole. Assessment results will be utilized in refining the curriculum, classroom instructional strategies for individual students, teacher training, budget decisions, and governance. The various assessments will empower teachers to create comprehensive lesson plans with differentiated instructional strategies.

The stages of assessment will include diagnostic, formative, and summative. Diagnostic assessment will provide teachers with important planning data and include pretests and student self assessments. Formative assessments will take place through out the learning process and will help teachers refine their lesson plans and ensure students are getting the individual attention needed. Summative assessments will demonstrate or measure the entire unit or course.

At CCSMS, students will have a hands-on role in the assessment process. They will develop an understanding that they are ultimately responsible for their academic achievement and will work with teachers to set goals and analyze their progress.

The types of assessments to be used at CCSMS:

- Pre-testing: assists the teacher in effectively planning for teaching and learning and provides benchmark data. Students can use this data in their self assessments.
- Student Self Assessment: students set goals and track progress with teacher's assistance. Individual Graduation Plans mandated in the SC

Education and Economic Development Act will be part of this assessment for grades 8-12.

- Student Portfolio: an evolving collection of student work documenting individual student progress.
- Rubrics: Teachers follow students' understanding of concepts through classroom observation. Students can use this data in their self assessments.
- Curriculum Related Tests: includes traditional classroom tests such as multiple choice, short written responses, and essays. Students can use this data in their self assessments. These assessments will be tied to the academic standards where applicable.
- Authentic Assessment: also known as performance assessment, students demonstrate their use of knowledge and skills. Students can use this in their self assessments.
- State Standardized Tests: including PACT for the middle school grades and end of course and HSAP in high school.

ASSESSMENT PLANS BY GRADE:

Grade	Stages of Assessment	Classroom and Standardized Assessments
6th Grade		
	▪ Diagnostic	Pre-testing Student Self Assessment
	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment

		Standardized Tests → Including PACT
7th Grade		
	▪ Diagnostic	Pre-testing Student Self Assessment
	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment Standardized Tests → Including PACT
8th Grade		
	▪ Diagnostic	Pre-testing Student Self Assessment
	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment Standardized Tests → Including PACT → End of Course (for High School Courses, such as Algebra 1)
9th Grade		
	▪ Diagnostic	Pre-testing Student Self Assessment
	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment Standardized Tests → Including End of Course and/or applicable test including HSAP
10th Grade		
	▪ Diagnostic	Pre-testing Student Self Assessment

	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment Standardized Tests → Including End of Course and/or applicable test including HSAP
11th Grade		
	▪ Diagnostic	Pre-testing Student Self Assessment
	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment Standardized Tests → Including End of Course or applicable State Test
12th Grade		
	▪ Diagnostic	Appropriate Pre-testing Student Self Assessment
	▪ Formative	Student Self Assessment Student Portfolio Rubrics
	▪ Summative	Student Self Assessment Student Portfolio Curriculum Related Tests Authentic Assessment Standardized Tests → Including End of Course or applicable State Test

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How assessments will be used: Decision Making, Engaging Students, and Family Involvement

- *Decision Making* Teachers, administrators, and board members will have high expectations for all students and will be committed to helping each child produce work of high quality. All decisions influencing curriculum, instruction, management, and student support use available data, are research-based strategies, and are made in a collaborative team process.
- *Engaging Students* All teachers will use assessment results to plan engaging and educational lesson plans encompassing the needs of all students. Students will have a great deal of ownership and responsibility in their education objectives and a comprehensive understanding of the various assessments. Teachers will explain what is being measured with the assessments and what the data will be used for. With Student Self Assessments, students will gauge how their efforts lead to their own achievements. Students will be encouraged to discuss their accomplishments and failures and the steps which lead them to different outcomes -- such as taking the extra time to contact a scientist to investigate a question further, being good team members, or addressing the lack of time management. Students will be challenged beyond paper tests through authentic assessments where they demonstrate their knowledge in hands-on learning.
- *Family Involvement* Students will have a family member or guardian actively participating in the decision making and planning of their educational experience during each school year. Students, grades 8 through 12, will work with staff, parents, and volunteers to draft and refine their Individual Graduation Plans --

creating a pathway to college, a connection between their course work and possible career choices, and a deeper understanding of the need to go to college in order to move beyond entry level jobs.

2. Performance Goals Timeline

CCSMS Goals and Objectives Projected Timelines

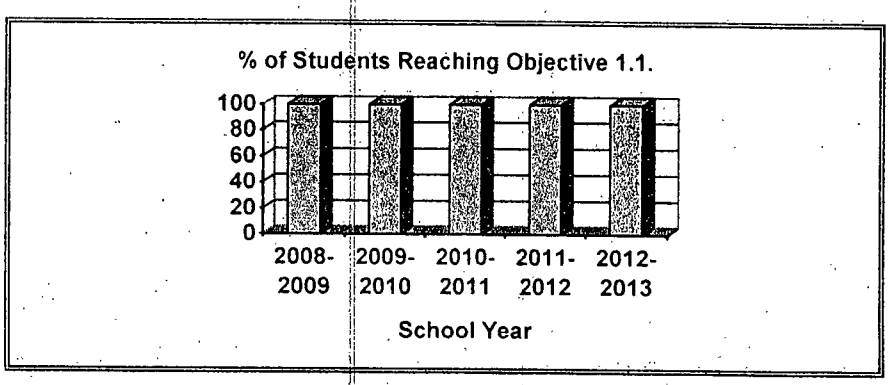
CCSMS will be a mission driven, data rich environment focusing on the needs of the individual students, with each objective measured throughout the school year and teachers having the flexibility to modify their lesson plans as needed within the curriculum. Teachers, students, families, and administrators will all have an understanding of and access to the data needed to bring about significant change.

The following timelines graph CCSMS's projected progress towards meeting each objective:

Goal 1: To educate all CCSMS students for success in college and careers, specifically in the fields of math and science.

Objective 1.1.

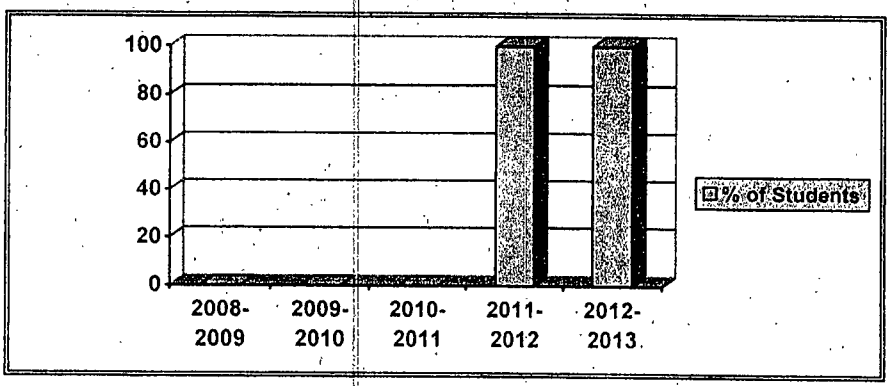
Each school year, 100% of students will demonstrate an increased ability to construct knowledge using contextually appropriate resources in class, including original data, primary sources, scientific instruments, and interactive technology, which will develop higher level thinking skills needed for success in college and careers, especially in the fields of math and science.



Assessment: Each student's ability to construct knowledge will be measured through teacher observation using course specific rubrics. Teachers will document individual student's methods of problem solving and use of resources. Teachers will work with students to assess their progress and level of mastery on each rubric.

Objective 1.2

Before graduating, 100% of students will explore at least 3 prospective careers which will develop relevance between their course work and potential careers involving math and science.



Assessment: Students' achievement of this objective will be followed through course work, internships, and development of their Individual Graduation Plan.

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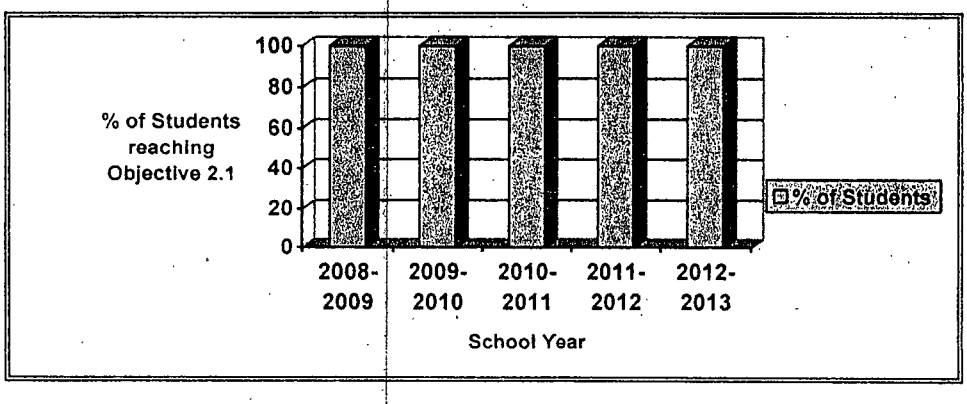
For each prospective career, students will identify training and/or education requirements, future hiring projections, and potential wages. Students will document their experiences in their student portfolios and Individual Graduation Plans. Teachers and guidance counselors will assess student progress through review of student portfolios, student self assessment, Individual Graduation Plans, and authentic assessment. The first graduating class will not be until the 2011-2012 school year.

Goal 2: To support academic excellence for all CCSMS students with an innovative learning environment that is developmentally responsive and socially equitable.

Objective 2.1.

100% of students who are not meeting specific course benchmarks during the school year will utilize available supports and resources until they are able demonstrate an increased understanding of the course work which will ensure that all students acquire the skills and knowledge needed for further academic success in rigorous courses.



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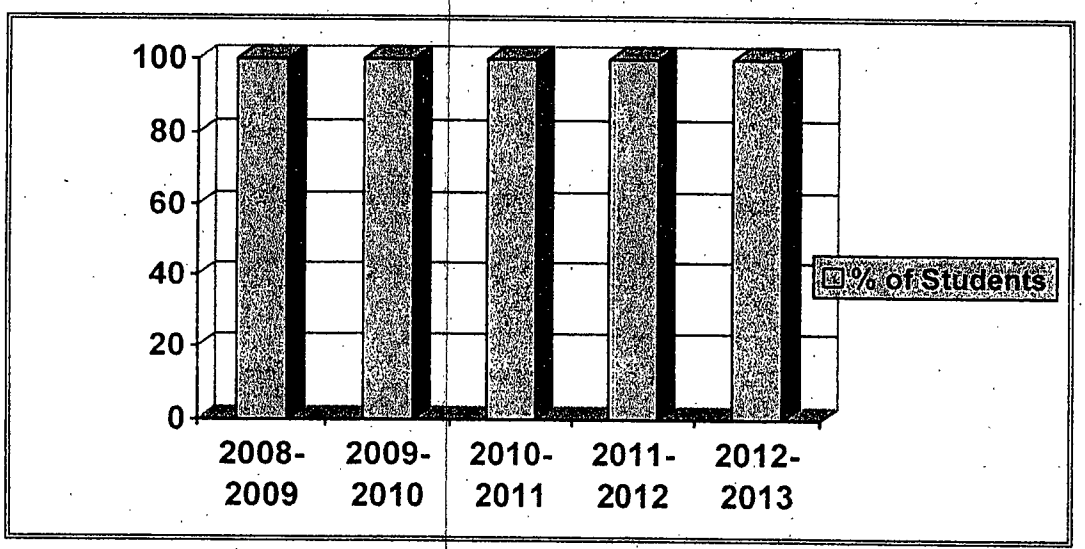
Assessment: Student progress will be measured throughout the year using specific course benchmarks developed by teachers annually that will incorporate skills needed in rigorous courses through college with the SC Academic Standards. The students' increased understanding of the course work will be measured through the benchmark assessments using previous and current scores.

Objective 2.2.

In grades 6 through 9, 100% of students will demonstrate an increased use of individual learning strategies to construct knowledge which will support academic excellence for all students and help close the achievement gap.

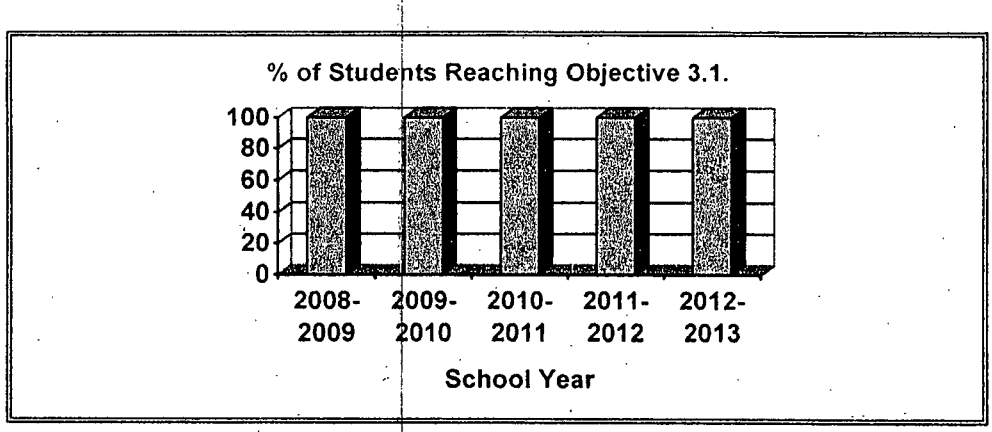


Assessment: Individual learning strategies and study skills will be measured with rubrics designed for each child depending on their strengths, learning styles, and needs. Teams of teachers will work together to measure and further develop each student's skills.

Goal 3: To increase learning opportunities for students within the public education system of Charleston County.

Objective 3.1.

100% of students that enroll at CCSMS working below grade level, but not requiring an IEP, will gain at least two years of proficiency for each year of instruction at the school up to their grade level with an outcome focused on increasing learning opportunities for individual children.

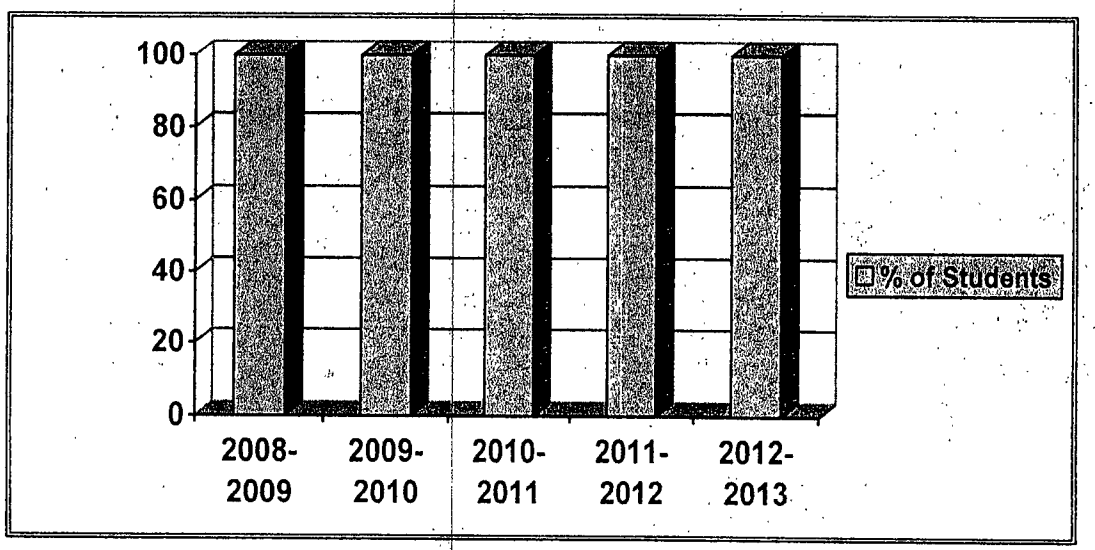


Assessment: Grade level proficiency will be assessed and measured with the use of diagnostic testing, curriculum related benchmarks, and SC standardized tests.

Please note: This objective focuses on increasing learning opportunities for students that sometimes "fall through the cracks." Students requiring an IEP will already have appropriate individualized benchmarks, supports, and instructional strategies documented in their IEP for the faculty and staff to follow.

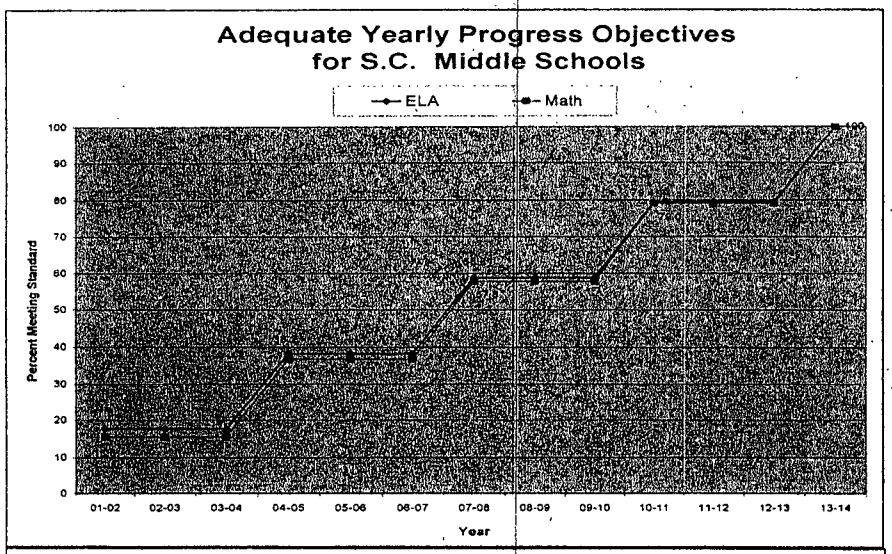
Objective 3.2.

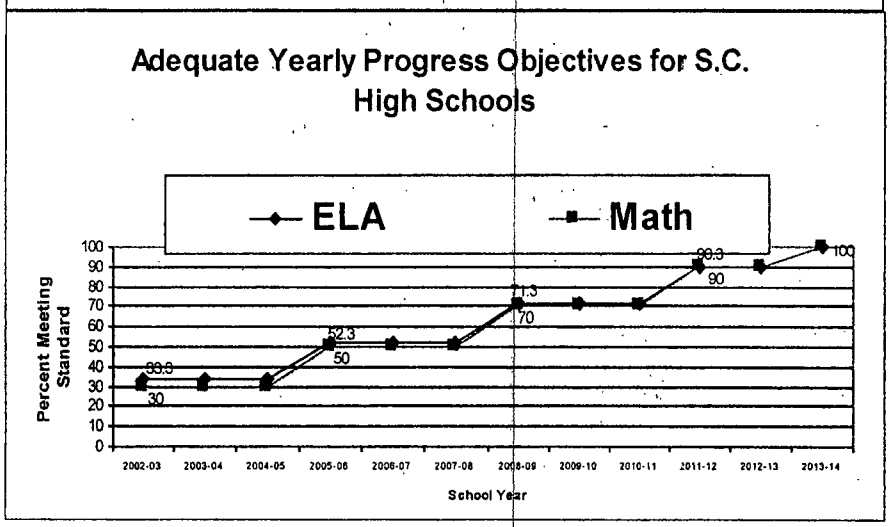
Each school year, 100% of students will develop individual steps towards their academic and career goals and will assess their own progress which will lead to each student taking responsibility for their education and increasing their own learning opportunities.



Assessment: Guidance counselors, teachers, and the students themselves will track individual student developed goals as documented in student self assessments and Individual Graduation Plans. Students will demonstrate and document their individual academic progress during each school year by actively participating in various methods of assessment to develop comprehensive, multi-dimensional, developmentally responsive measures of individual student achievement. Student progress will be assessed with the review of the Individual Graduation Plan requirements, use of guidance counselor designed rubrics, and student portfolios.

The Charter Committee has worked with the State Department of Education to determine the timeline for meeting the school's long-term performance goals. CCSMS will meet or exceed the expectation of adequate yearly progress as established in No Child Left Behind displayed in the following timelines:





AYP Calculations

Adequate Yearly Progress (AYP) is met if the school meets all of its participation and performance objectives. There are participation and performance objectives for each test, English and Language Arts (ELA) and Math, for each subgroup in the school.

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There is an additional objective for the "second" performance criterion. The subgroups include:

- Total students
- Ethnic Categories:
  - White
  - African-American
  - Hispanic
  - Asian
  - American Indian
- Disabled Students
- LEP students
- Students who receive subsidized meals.

A subgroup must meet the participation objective if there are at least forty students in the subgroup. The subgroup must meet the performance objective if there are at least 40 students in the subgroup (50 for the LEP and disabled subgroups) who have been enrolled the entire year and have taken the test.

Performance Calculations: Student Attendance

The State was required to identify a second performance criterion for elementary and middle schools. South Carolina chose to use student attendance. Student attendance is calculated subtracting the number of days that students were absent from the number of days of membership, and dividing the result by the number of days of membership. The objective is met if the student attendance rate is

1. equal to 94.0% or

2. at least .1% higher than it was the year before.

Data is collected as part of the 180 day quarterly data extraction. Subgroups must meet the objective only if they meet the performance objective using one of the safe harbor procedures.

Performance Calculations: Graduation Rate

For high schools, the second performance variable is graduation rate. Graduation rate is the percent of students who entered the ninth grade for the first time four years earlier who received a State High School Diploma. The state will identify the students who should have received diplomas as:

1. Students enrolled at the school with the appropriate code in the 9GR field in the SASI Supplemental Atom.
2. Students on the previous year's graduation list published by the Accreditation Section of the SDE Office of School Quality who appeared as ninth graders four years earlier and who did not appear as ninth graders five years earlier.
3. Students who appear on a Dropout Report from the school in any of the previous three years (or listed as a dropout on SASI during the current year). Quantity who appeared as ninth graders four years earlier and who did not appear as ninth graders five years earlier.

The students who received State High School Diplomas are identified:

1. The school reports the names of students in this group who received State High School Diplomas in the current year.
2 Students who graduated early are identified from the previous year's graduation list published by the Accreditation Section of the SDE Office of School Quality.

The graduation rate is the number of students who received a State Diploma divided by the number who should have received a State Diploma.

Federal regulations require that the graduation rate is used whenever a school has 12th graders, which would be the fourth year of operation at CCSMS.

3. Academic Assistance

CCSMS will take proactive measures to address the needs of students who do not perform at acceptable levels of proficiency in the statewide assessment program. The level of proficiency the school will use to determine the need for assistance will be set by the grade level assessments as designated by the state of South Carolina, therefore, any student working below grade level at CCSMS will receive academic assistance. (Revision 7/6/2007.)

The research-based objectives, curriculum, and instructional strategies of CCSMS are designed to allow all students to succeed academically. CCSMS's comprehensive assessment system will provide teachers and administrative staff with the on-going data and benchmarks needed to best determine the path for students.

An academic plan will be created, as required by NCLB, for those students who do not perform at acceptable levels. Academic support services will be coordinated by the teachers and guidance counselors. Academic assistance and tutors will be made available to all students who need them.

F. Budget and Accounting System

1. Annual Budget

The Board of Directors will determine the business and financial services protocol for our charter school. Currently the Charter Committee is exploring alternatives (outsourcing, in-house) and will ultimately select the process that best suites our fiscal needs as well as establishes us as sound stewards of public funds. Appendix C contains our spreadsheet formatted, *Five-Year Projected Budget*. This budget has been prepared in accordance with State Department of Education (SDE) *Financial Accounting Handbook*, with reference to the *Funding Manual* and the *Single Audit Guide*. The Board of Directors will adopt an *Annual Operating Budget* during June preceding the start of the Fiscal Year and will receive and approve *Monthly Financial Statements* during the operational Fiscal Year. The accumulated fund balance may be used for unforeseen costs in years three through five. (Revision 7/6/2007.)

a. Revenues:

Revenue account codes used in the attached budget are in accordance with the SDE *Financial Accounting Handbook* for South Carolina school districts. Documentation from the SDE of estimated revenues for the Charleston County School District (CCSD), in accordance with the allocations in S.C. Code Ann. § 59-40-140(A)-(C), is Appendix D. Our revenues do include funds acquired through grants – specifically the Federal Public Charter School Program (*Planning and Implementation Grant*). The grant award is Appendix E.

b. Expenditures:

Expenditure account codes used in the attached budget are in accordance with the SDE *Financial Accounting Handbook* for South Carolina school districts. Anticipated expenditures follow the same budget codes (Fund, Function, Object) that are required of school districts operating in South Carolina. Costs associated with planning, implementation and continuance are included.

c. Budget and Accounting Management:

The Board of Directors will be responsible for the fiscal management of the school. As stated above, the Charter Committee is researching fiscal management options. Currently we have the assistance of Kelley-Moser Consulting, LLC during the Application Phase of our charter initiative:

Bill Moser
Director of Development
Kelley-Moser Consulting, LLC
150 Harbor Glen Drive
Lexington, SC 29072
803-808-0338 (Office)
803-227-9421 (Mobile)
bill@kelley-moser.com

2. Annual Audit

A Certified Public Accountant (CPA) will conduct an annual audit of all financial records. The audit will be conducted in the same manner as all schools in the Charleston County School District (CCSD). Charleston Charter School for Math and

Science will adhere to accounting, auditing, and reporting procedures and requirements of CCSD, which are those for all public schools operating in South Carolina. Accounting, auditing and reporting procedures and requirements will comply with the published specifications of the Office of District Auditing and Field Services contained in the *Financial Accounting Handbook*, *Funding Manual*, and *Single Audit Guide*. The Board of Directors will receive, review, and approve the Auditor's Report prior to official reporting.

3. Pupil Accounting System

In accordance with the guidelines set forth by the *South Carolina Pupil Accounting Manual* and the *South Carolina Student Accountability Manual*, Charleston Charter School for Math and Science will adhere to the reporting procedures, policies, and regulations that apply to all public schools in South Carolina. Reports will be maintained and filed according to district, state, and federal requirements.

4. Negotiated Services Documentation

Currently we have not negotiated any services with the CCSD or any other outside vendor. The Charter Committee is currently researching options (in-house, out-sourcing) for fiscal services, food services, custodial services, maintenance, curriculum, library and media services, pupil transportation services, and the like. We will thoroughly review all options and proceed with the protocol that best meets our financial needs and best sets us as sound guardians of public funds. If the school wishes to

engage district services in the future, the school and the district will negotiate the written agreement(s) (Scope, Services, Payment) for those services. (Revision 7/6/2007.)

G. Governance and Operation

1. Non-Profit Corporation Status.

Copies of the following are in Appendix F:

- Certification of non-profit corporation from the South Carolina Secretary of State
- Articles of incorporation
- Bylaws

2. Governing Board

a. Charleston Charter School for Math and Science, Inc will be managed in accordance with the requirements of the South Carolina Charter School Act. During the planning stage, the applicants convened a charter school committee, consisting of teachers, parents, and community members with various background experiences from different constituent districts to govern the charter school through the application process.

The Charter Committee will act as governing board until such time as a duly elected board shall be chosen. The initial election of the Board of Directors will occur in October of the 2008-2009 year and annually by October 30th the following school years thereafter. The board will consist of nine members.

All employees of the charter school and all parents or guardians of students enrolled in the school are eligible to participate in the election. Nominations for

candidates of the governing board will be accepted and individuals nominated will be contacted to ensure their willingness to serve. Names of nominated individuals who have indicated their willingness to serve on the school's governing board will be placed on a form to be sent home with every student in the school and given to every school employee.

Employees will be given one vote. Parents or guardians of a student shall have one vote for each student enrolled in the charter school (Section 59-40-50 of the Charter School Act of 1996). The deadline for voting will clearly be stated on the ballot form. At the first board meeting of newly elected directors, the Board of Directors will elect officers. The elected governing board will be re-elected annually.

b. Board of Directors Responsibilities

The Board of Directors is the governing board for Charleston Charter School for Math and Science and will govern in accordance with the Charter School Act of 1996) The board's focus is student achievement, ensure compliance and sound fiscal management. The Board:

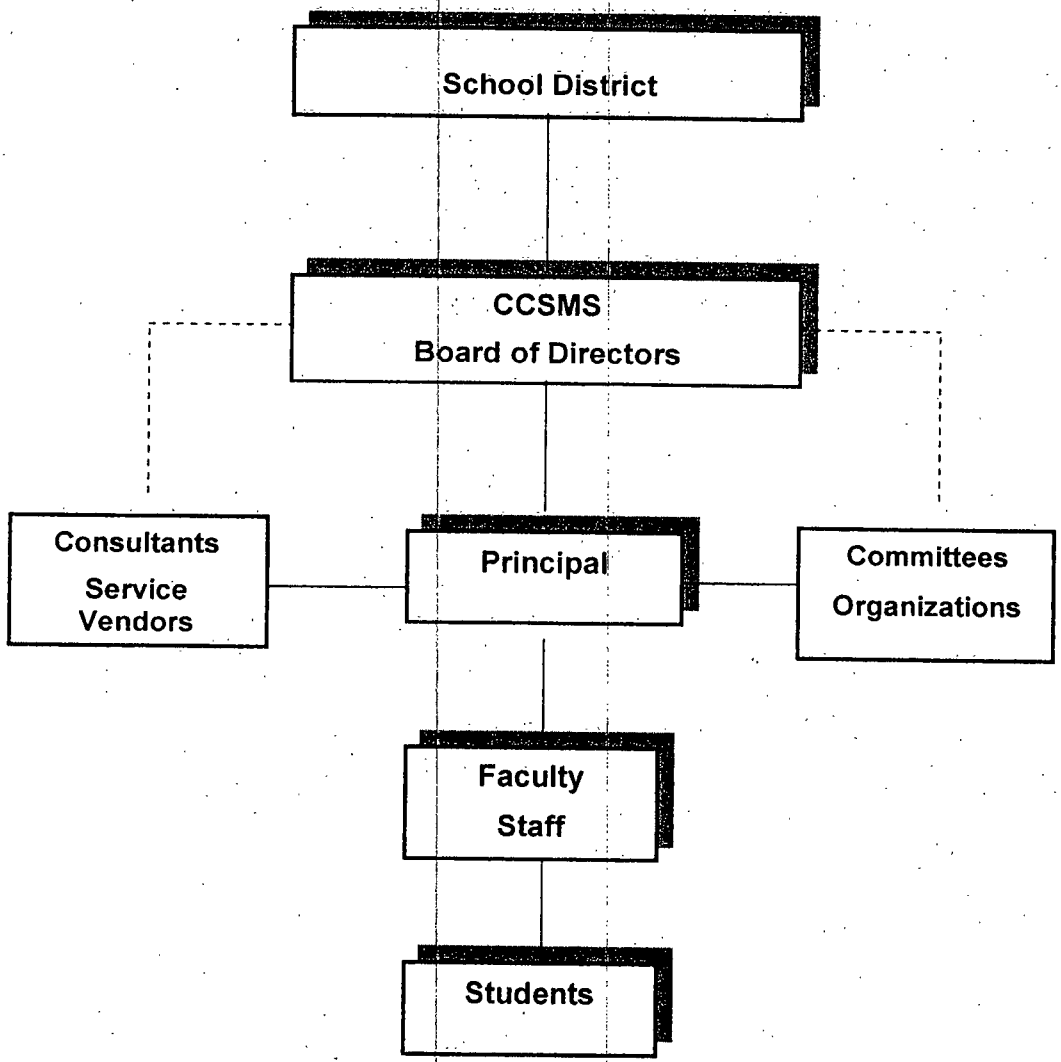
- Establishes policies for the governance in accordance with national, state and local laws governing public charter schools in South Carolina.
- Hires, evaluates, retains, and removes the school principal.
- Develop a policy that will grant the principal the authority to employ and contract with teachers and non-teaching employees and over see day to day operations of the school.

- Reviews documentation presented by principal ensuring that all employee applicants have met certification requirements and applicable background investigations before employment.
- Is responsible for approving contracted services not limited to transportation, financial accounting, and legal services.
- Creates reviews and adjusts pay scales, performance criteria, and discharging policies as required.
- Will develop policies regarding operations of the school, budgeting, curriculum, and operating procedures.
- Reviews monthly financial reports and vote annually on the budget.
- Reviews and evaluates the academic and administrative achievements and progress towards annual goals.
- Maintain accurate up to date records of the business conducted at all Board meetings. Notify the public of scheduled meetings in accordance with state laws.
- Conducts periodic reviews of school guidelines regarding health, safety, civil rights, and disability rights requirements as needed, and adhere to the same requirements that are applied to all public schools operating in Charleston County School District.

c.

The governing body will comply with the Freedom of Information Act that is included in Appendix G. This will include, but is not limited to all policies regarding student, faculty and staff records, administrative records, and meetings.

3. Administrative Structure



Principal:

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The CCSMS Board of Directors will delegate to the principal authority for the management and execution of the day-to-day school activities, including management of the personnel and instructional leadership. The principal serves as the liaison between the Board and the school. The principal will be an experienced leader, committed to excellence in learning and academic innovation. The successful candidate for this position will possess the following experiences, skills, and qualities:

- Ability to lead highly energized teams characterized by honest and open communication, mutual respect, and commitment to the organization as a whole.
- Experience in small, progressive, urban learning communities.
- Great rapport with students, families, staff, and community members.
- Creative problem solving and entrepreneurial capacity to manage change and be responsive to community needs.

Responsibilities to include, but not limited to:

- Will ensure compliances with all school policies
- Carry out the mission and create the culture for the charter school.
- Direct the institutional focus on student achievement with a school culture that maintains a relentless focus on motivating students to achieve academic results and encourages collaboration to meet the full range of student needs.
- Develop, refine, and provide input into the implementation of the school's academic program.
- Recruit competent, team-centered teachers who possess the requisite subject-area expertise and demonstrated success in working with middle and high school

age students to prepare them to be highly competitive in high school and in college studies.

- Develop a system for ongoing evaluation of teacher performance and professional development that is linked with measurable results.
- Collaborate closely with other school leaders to plan and prepare for academic, social, fiscal, and other transition issues.
- Work with the board and the community to create a sustainable charter school that utilizes all available resources.
- Contribute to the creation of the school's extracurricular, intervention, service learning, and enrichment programs.
- Ensure that all grant and funding requirements of the school are met with goals and objectives appropriately measured and assessed.
- Build and maintain systems for managing information and communications such as scheduling and student management; developing the budget and tracking expenditures.
- Ensure that accurate and current student records are maintained according to the established recordkeeping format.

Vice Principal:

The Principal will assign management responsibilities and operational duties to the Vice Principal focused on student achievement and the school's educational goals.

Administrative Assistant:

The Principal will assign appropriate administrative tasks to the Administrative Assistant to ensure the proper management of the student achievement data and fiscal reporting records.

Guidance Counselors:

The Principal will assign appropriate responsibilities to the Guidance Counselors, including those mandated by state laws, to promote student achievement.

4. Parental, Community, and Educator Involvement

Parents and teachers will be represented in the governance of the school by their vote for board members and freedom to have input into the board decisions. Parents and committee members will serve on committees and on the Board of Directors.

Families will be an essential part of the team ensuring the success of all students. Families will have high expectations of all students and will be supportive of the school's innovative learning environment. Families will be active decision makers concerning their child's education. The day to day operation of the school will rely heavily upon the efforts of the parents and families. Parents, family members, and community members can contribute in numerous ways including but not limited to: classroom support, administrative tasks, tutoring, mentoring, community outreach, fundraising, coordinating extracurricular activities and providing support for their children at home. Community members will be sought for opinions and suggestions to interact with board members and school personnel. Partnerships will be established with local

universities and school districts, where professional educators will be invited to share their passions and expertise.

All volunteers must have a background check completed before volunteering.

H. Administrative and Teaching Staff

In compliance with the South Carolina Charter Schools Act of 1996, at least one member of the CCSMS administrative staff will hold a current South Carolina certification in administration or have at least one year of experience in the field of school-based administration.

In accordance with the No Child Left Behind Act (NCLB) and recent guidance from the US State Department of Education about NCLB and Title 1, employment will meet the South Carolina Charter Schools Act guidelines with a minimum of 75% of all CCSMS teachers having certification in their subject area.

Teachers in each core academic area (English and language arts, mathematics, science, and social studies) will either be certified in that area or hold a baccalaureate or graduate degree in that subject. Teachers will meet the definition of "highly qualified" teachers by state and NCLB standards: they will have earned at least a bachelor's degree with full certification in the content area and no waivers and demonstrated core content knowledge by state approved assessment (HOUSSE, high objective uniform state standard of evaluation). The core subjects according to Section 9101(11) of NCLB are English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. The acceptable certificates meeting the "highly qualified" criteria are initial, critical needs (PACE), or Professional.

Special education teachers will have certification consistent with the state regulations in each area of disability for students needing special education. Each

school year, administrators and teachers will review the Individualized Education Programs (IEPs) for all students to determine the special education staff requirements.

Non-certified teachers will be appropriately qualified for the subject matter taught, will have completed at least one year of study at an accredited college or university, and will have met the qualifications outlined in S.C. Code Ann. § 59-25-115.

Qualifications and experience of all faculty and staff of the school will be open to the public and considered an important part of the information shared with prospective and enrolled students and their parents/guardians. Updates on changes as they occur with regard to staffing and qualifications will be communicated in a timely manner as specified in the NCLB Act.

1. Administrative Staff

Principal

Qualifications: Masters Degree required as well as valid certification in school administration. Certification Code required is 72 for "Secondary Principal." A minimum qualifying score on the area examination(s) required by the State Board of Education. Verification of three years teaching experience, including at least one year of teaching in grades 7-12, and completion of an advanced program approved by the State Board of Education for the training of secondary principals and supervisors. In accordance with the South Carolina Charter Schools Act of 1996, at least one member of the administrative staff will hold a current South Carolina certification in administration or have at least one year of experience in the field of school-based administration.

Assistant Principal

Qualifications: Masters Degree required as well as certification in school administration. Certification Codes required for Grade 6 are either 71 for "Elementary Principal" or 73 for "Elementary Supervisor", for grades 7-8 the Certification Code required is one of the following: 71 for "Elementary Principal," 73 for "Elementary Supervisor," 72 for Secondary Principal," or 74 for "Secondary Supervisor." For grades 9-12, the Certification Codes required are either 72 for "Secondary Principal" or 74 for "Secondary Supervisor."

Guidance Counselor

Qualifications: Masters Degree is required as well as completion of an advanced program approved by the State Board of education for the preparation of school counselors. Counselor must have earned the minimum qualifying score(s) on the area examination(s) required by the State Board of Education. Certification code is 86 for 6th grade, 86, 88, 89, or 90 for grades 7-8, and 88, 89, or 90 for grades 9-12.

Administrative Assistant

Qualifications: High school diploma and related work experience including demonstrated experience requiring interpersonal skills with a variety of internal and external contacts. Proficiency in computer skills and familiarity with necessary programs are required. Good organizational skills required as well as knowledge of

standard office procedures, school bookkeeping, grammar, punctuation, spelling, and proofreading.

Library Media Specialist

Qualifications: Masters Degree is required as well as completion of an advanced program approved by the State Board of Education for the preparation of media specialists or school library media specialists. Must also have earned minimum qualifying score(s) on the area examination(s) required by the State Board of Education. Certification code is 60 or 61 for Media Specialist at the 6th grade level and 60 for grades 7-12.

Nurse

Qualifications: Graduation from an accredited nursing program (Associate's Degree or Bachelor's Degree is Required). Must have current SC RN Licensure Issued by the State Board of Nursing and 3 years of full-time professional nursing experience. Must possess considerable knowledge of the principles and practices of nursing in accordance with accepted and prevailing nursing standards in the profession.

2. Teachers

a. Teachers: CCSMS will begin the 2008-2009 school year, with a projected enrollment of 180 students, with 10 full time teaching positions and contracted part time positions as required. The school will grow to a total of 480 students in 4 years with a combination of over 40 full time and part time teaching positions, as required at the time

to meet the educational needs of the students. The student to teacher ratio per class will be approximately 20 to 1.

b. Qualifications: Bachelor's degree and certification in assigned content area meets highly qualified requirements of HOUSSE in compliance with No Child Left Behind.

Career Cluster teachers will participate in regional and national trainings and professional development to ensure courses meet programmatic certification requirements and promote high student achievement.

Anticipated Teaching Positions:

The following list of anticipated teaching positions has been developed with the SC Educator Certification Manual.

a. Teachers:		b. Certification Codes:
	Corresponding Course Codes:	
Middle School Teachers: Grades 6, 7, and 8		
Math	1110 for 6th, 2110 for 7th and 8th 4111 for Algebra 1 in 8th grade	01, 1F, 1B for Grade 6, and 10, 1F, and 1B for Grades 7-8, 10 for Algebra 1
Science	1201 for 6th, 2201 for 7th and 8th	01, 1G, and 1C for Grade 6, and 1G or 1C for Grades 7-8
English and Language Arts	1010 for Language Arts 6th, 2001 for Language Arts 7th and 8th, 1010 for English 6th, 2010 for English 7th and 8th	01, 1E, 1A, 83, 81, 82, 80 for Grade 6, and 1E, or 1A for Grades 7-8
Social Studies	1301 for 6th, 2301 for 7th and 8th	01, 1H, 1D for Grade 6, and 1H, or 1D for Grades 7-8
High School Teachers: Grades 9 -12		
Math		
Algebra 1	4111	10
Geometry	4121	10
Algebra 2	4112	10

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Precalculus	4131	10
Calculus Advanced Placement AB	4170	10 AND AP endorsement in the particular course
Probability and Statistics	4141	10
Science		
Biology	3221	12 or 14
Chemistry	3231	12 or 15
Physics	3241	12 or 16
Environmental Sciences AP	3277	12 or 17 and AP endorsement in the particular course
Marine Sciences	3225	12, 14, or 3A
Earth Science	3265	17
English		
English 1	3011	04
English 2	3012	04
English 3	3013	04
English 4	3014	04
Social Studies		
Global Studies--World Geography	3310	20, 21, or 24
U.S. History and Constitution	3320	20 or 21
Economics	3350	20 or 23
U.S. Government	3330	20 or 25
Career Cluster Teachers:		
Project Lead the Way Engineering	6050 to 6058	Baccalaureate and certification in any area *plus* Project Lead the Way certification
Project Lead the Way Biomedical Sciences	Numbers to be assigned	Current Pilot Program in SC – certification will follow SC guidelines as determined
Business and Entrepreneurship	5150-5153, 5400, 5032,5178,5001, 5047,	47, 48, or 4B
Electives Teachers:		
Foreign Language Teachers		
Latin	Middle and High School	06

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Spanish	Middle and High School	07
French	Middle and High School	05
Art	Middle and High School	49 or 50 for all grades
Music	Middle and High School	49, 51, 52, 53, 54, 56 for all grades, 50 will count for Grade 6)
Computer Programming	5050, 5051	10, 32, 40 41 42 43 44, 45, 46, 47, 48, Computer Programming Endorsement (Regulation 43-62) or Industry Certification through Regulation 43-63 Work-based Certification
Web Design and Development	5031	32, 40, 41, 42, 43, 44, 45, 47, 48, 4B or Any certification plus industry certification such as *CIW*
Health	Middle School 2401 High School 3402	01, 13, 64, 65, 66, 1G, 1C, 67, but 01 will not be sufficient for Grades 9-12
Physical Education Middle School	2440	65, 66, or 67
Physical Education 1	3441	65, 66, or 67
Physical Education 2	3442	65, 66, or 67

c.

Special education teachers will have certification consistent with the state regulations depending on the specific needs of children to be served. Student needs and staffing requirements will be reviewed annually and will be in compliance with all state and federal laws.

I. Racial Composition

1. Racial Composition.

The racial composition of the students is of prime importance to the founders of Charleston Charter School for Math and Science because of the cross-cultural flavor necessary to provide effective inquiry-based learning. In 2004-2005 school year the Charleston County School District was 53.4% African American, 41% Caucasian and 5.6% Other. The Charter school will target the entire district population.

2. Policies and Procedures.

The charter committee and sub-committee members are committed to thoroughly publicizing information regarding Charleston Charter School for Math and Science in all areas of the county and by variety of means in order to receive a pool of student applications that is similar to the racial composition of the Charleston County School district.

To recruit students, community meetings will be held throughout Charleston County. The following table outlines CCSMS proposed efforts.

Community Outreach Plans for enrollment of a diverse student body:
• Relationships will be forged with guidance counselors and teachers, especially those teaching math and science.
• Hands-on mini science expos at potential feeder schools, youth clubs, scout troops, and neighborhood community centers.
• Partnering opportunities will be sought with local colleges to sponsor math and science challenges.
• Promote math and science through activities with local museums, public parks, and public libraries.
• Write a column or an activity for publishing in local newspapers, magazines, and family oriented websites.
• Post announcements in Post and Courier and community papers

distributed to Charleston County residents.
• Open house gatherings at the school.
• Student and family oriented newsletter sent to those who apply.
• Present to major employers located in the downtown area or with parents who would be excited by a Math and Science focused curriculum, e.g. the Medical University of South Carolina.
• Meet with local religious leaders and their congregations who have strong ties to the community.
• Make presentations to neighborhood organizations, especially those with relatively easy commutes to a downtown school.
• The CCSMS website will include an overview of the school, a printable application, enrollment procedures, deadlines, and contact information in case a student requires specific assistance in applying to the school.
• Brochures and applications will be made available throughout the county at libraries, churches, civic groups, neighborhood associations, and other similar organizations.

For the 2008-2009 school year, applications will be accepted from October 1, 2007 through January 9, 2008 with a random public lottery (should the school receive more applications than available student slots) scheduled for January 15, 2008. The CCSMS Board of Directors will establish application and lottery dates for the subsequent years.

The address for submitting applications will be: Charleston Charter School for Math and Science, PO Box 21406, Charleston, SC 29413

3. Desegregation Plan or Order

The Charleston County School District is not subject to a desegregation plan or order. Should the district be placed under such an order during the operation of Charleston Charter School for Math and Science, the school will respond as directed by the order. A letter located in appendix H indicating that Charleston County School District is not subject to a desegregation plan or order.

J. Transportation

1. Transportation Needs

Transportation will not be a barrier to attendance at CCSMS; accordingly, we have appropriated funds in our budget for contingency transportation requirements.

CCSMS is currently investigating all transportation options. We will coordinate with the parents in establishing a carpool system to ensure that our students are transported to and from school on a daily basis.

2. School Bus

If, in the future, the board decides the school will provide transportation by school bus, a plan will be developed that complies with the state requirements for drivers and training and the state safety requirements for school buses.

3. Contracted Services

The Charter Committee of CCSMS has not, at this time, contracted with the school district or a third party for transportation services.

4. Special Needs Students

Our special needs students will be given access to a free and appropriate public education and related educational services – including transportation. Federal Public Law 94-142 and Chapter 33 of Code of Law of South Carolina 1976; Title 59 (Sections 59-33-10 through 59-33-110) will govern. As mandated, our students with special needs will be provided transportation as necessary. The student's IEP (Individualized Education Plan) will specify any special circumstances (equipment, supervision, vehicle type, etc.) that will be provided to meet the student's needs.

K. Facilities and Equipment

Documents pertaining to facilities are included in Appendix I.

1. Identified Facility

Not Applicable at this time.

2. Facility Not Identified

The number of children participating in the Charleston County public school system continues to drop – even while the population is increasing. According to the 2005 S.C. Kids Count, the number of children in Charleston County under the age of 18 increased from 73,605 in 1990 to 77,087 in 2003. Yet, over the past 10 years, the number of students enrolled in this county's public schools has decreased from more than 46,000 to fewer than 41,000, according to the SC Department of Education. This trend indicates dissatisfaction with these schools and creates empty classrooms. In fact, it was these two factors – dissatisfaction with educational opportunities and underutilization of a public school building - that prompted this charter school initiative. Knowing that facilities issues have sunk many charter schools, the CCSMS charter committee realized that gaining access to this facility would greatly improve its odds for success. Furthermore the committee believes, firmly, that using this public property for a new innovative public school is not only appropriate; it is the highest and best possible use for this facility.

The committee is unable, at this time, to meet the requirements stipulated by this application to characterize this facility as "identified." Specifically, it lacks the necessary

memorandum of agreement with the controlling party, the Charleston County School Board, but believes that an agreement will be reached. Therefore, the "facility not identified" questions are being answered, when, in fact, it has been targeted from the very beginning of the process in May of 2006.

a. Description of the facility needs:

The facility is the Moultrie Rutledge Rivers building and campus, now known as the Rivers Middle School. It opened in 1938 as a middle school. In the 1950's it became a high school. In 2001 it served 768 children. In 2005, the number was 340; and in 2007, it is approximately 50. Situated at 1002 King Street on 8.4 acres in a rapidly improving neighborhood, Rivers is conveniently located to the entire county due to the new Arthur Ravenel, Jr. Bridge and the Huger Street ramp off of I-26, which bounds its back fence. In fact, the east lane of I-26, which is elevated at this point, provides a commanding view of the fields and the back of the building. The main facility is an historic two-story brick building with a slate roof and 72,614 square feet of covered space. It includes 37 classrooms, labs, a media center, an office and an auditorium with a stage and balcony. Adjacent to it is a 13,956 sq. ft. gymnasium with a full size basketball court, a classroom and two locker rooms. There is also a 5,944 sq. ft. cafeteria with full kitchen facilities. These structures occupy one third of the lot. Behind them there's room for parking, playing fields, mobile classrooms and expansion. (A site plan and floor plans are included in Appendix I.)

b. An existing facility will be remodeled:

A renovation of the Rivers classrooms and cafeteria is currently being planned by the CCSD. Towards this work, the Charleston County School Board has already allocated $9.5 million, as follows. In the 2000-2004 building program, $3.1 million was earmarked for the Rivers campus but not spent since the district was in the process of changing the mission of the campus. In 2005, the Board augmented the existing $3.1 million with $4.9 million to address the deferred maintenance needed to protect these buildings from any further water damage. In 2006, the Board approved $1.5 million to fund the concept development and design through the Construction Document phase, once the district's leadership approved an instructional mission for this campus.

c. A schedule for completing or obtaining a suitable facility.

The CCSMS charter committee's plan for gaining access to the Rivers facility is to request the Charleston County School Board's permission for this use at the time that it considers this charter application.

Timeline for obtaining a suitable facility:

Charleston Charter School for Math and Science

Timeline

July 3,2007

Line No.	Event/Activity	Start Date	Duration	End Date
1	Decision on Facility Location	02/07/07	5 months	07/30/07
2	Preparation of Design Documents	07/30/07	4 weeks	08/27/07
3	Review with Committee	08/27/07		
4	Modifications	08/27/07	2 weeks	09/10/07
5	Approval by Committee	09/10/07		
6	Permitting of Facility	09/17/07	1-2 months	11/12/07
7	Submit to OSF	09/17/07		11/12/07
8	Submit to City of Charleston	09/17/07		11/12/07
9	Accept Applications from Students	10/01/07		01/09/08
10	Advertise for Bids/Bid Period	11/11/07	4 weeks	12/09/07
11	Pre-Bid Conference	11/12/07		
12	Bid Opening/Review Bids w/ Committee	12/10/08		
13	10-day protest period	12/10/07		12/20/08
14	Board Approval (if needed)	01/14/08		
15	Award Contract	01/14/08		
16	Determination of Student Population	02/15/08		
17	Notice to Proceed	02/18/08		
18	Manufacture/Procure Portables	02/18/08	8 weeks	04/14/08
19	Preliminary Site Work	03/03/08	6 weeks	04/14/08
20	Install Portables	04/14/08	4 weeks	05/12/08
21	Upfit/Join Portables	05/12/08	4 weeks	06/09/08
22	Obtain Certificate of Occupancy	06/09/08	1 week	06/16/08
23	Install Furniture and Equipment	06/16/08	4 weeks	07/14/08
24	Teacher Move-In	07/28/08	3 weeks	08/20/08
25	School Starts	08/20/08		

If the plans to renovate Rivers are approved and executed per the preliminary schedule (Appendix I) the main building will be unavailable until May of 2010. However, the gymnasium (which was renovated in 2004,) the cafeteria and much of the field behind the buildings could be available by the summer of 2008. The CCSMS will request use of these components of the campus until completion of the work on the main building. If granted, it will place six trailers on the grounds for the first year of operations, 2008-09. These would be configured into nine classrooms, an office and laboratories. Funds to lease, equip and insure six mobile units are included in the budget for the first year and nine units in the budget for the second year. In year three, the budget and enrollment plans assume that two thirds of the classrooms in the building will be used. This assumption would accommodate the number of students projected in the budget and leave room for the school district's career academy, per preliminary discussions with Chief Academic Officer, Dr. Nancy McGinley.

Also included in Appendix I:

The "Monthly Executive Summary Report" by Heery International, the Project Management Firm, February, 2007.

The "Proposed Execution Schedule: Rivers Education Center" by W.H. Lewis, Executive Director Capital Improvements (2/7/07.)

"The Rivers Educational Center" proposal by GJ, submitted in October of 2006, which documents the $9.5 million, already allocated.

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L. Employee Relations

1. Employment Process

Recruitment and hiring of professional personnel will be based on qualifications and merit.

As an Equal Opportunity and Affirmative Action employer, Charleston Charter School for Math and Science, Inc. CCSMS policy will prohibit discrimination on the basis of race, color, religion, national origin, sex, marital status, sexual orientation, educational affiliation, handicap status, or age. Equal employment opportunities will be considered throughout the entire employment process including: recruitment selection and hiring; transfer and promotion; demotions, terminations, layoffs and recalls; compensation; working conditions; benefits and privileges of employment; and training.

After analyzing each job vacancy, the Charleston Charter School for Math and Science, Inc. may consider the following recruitment strategies to assure the diversity of staffing:

- Advertisements in local, state, and regional newspapers
- Advertisements in professional publications
- Advertisements with college and university placement services – especially those schools with strong math and science programs.
- Internal and external searches
- Charleston Charter School for Math and Science, Inc. website
- Inquiries and referrals
- Professional contacts with community organizations that promote the interest of minority groups

- Publications and pamphlets
- Special activities and events for prospective applicants
- Audiovisual packages and recruiting program

Position notices will include the description of duties, requirements and qualifications, statement of Equal Opportunity and Affirmative Action, and closing date.

Applicants for teaching positions at the Charleston Charter School for Math and Science, Inc. must submit the following as a part of the application process:

- Resume
- An official application to the Charleston Charter School for Math and Science, Inc.
- South Carolina Teaching Credentials (at least 75% of the school's teaching staff must be certified to teach their assigned subject area)
- A transcript from an accredited college or university showing a major or minor in the subject matter they intend to teach, if applicable
- A copy of professional test results for the HOUSSE requirements of No Child Left Behind (NHLB), if applicable
- Three work/professional references

Applicants will be reviewed by the teachers and administration of the school. Candidates that are most qualified to teach in a project based, constructivism curriculum will be selected. Top candidates will be sent a letter inviting them to participate in an

interview or series of interviews (depending upon the job for which they are being considered).

An interview committee will be established comprised of CCSMS Charter Committee members and subsequently members of the school's Board of Directors and/or school personnel. Interviews will offer the opportunities to evaluate each candidate's interpersonal skills and professionalism. Review of background and experience will be included as a part of the interview, as will the instructional video submitted by teacher candidates. Each candidate will be given the opportunity to discuss issues facing educators today, what they hope to learn working at CCSMS, what they want to offer students, and what they expect to be their biggest challenges. Rubrics will be used to evaluate each applicant in relation to the mission of the school.

The interview committee will submit recommendations of staff members to the school's administrator. Background checks and other investigations required by law will be conducted on all recommended applicants. The school's administrator will make the final decision and submit it to the school's Charter Committee members and subsequently members of the school's Board for approval and hiring.

2. Teacher Evaluations

The Charleston Charter School for Math and Science, Inc will use the South Carolina System for Assisting, Developing, and Evaluating Professional Teaching (ADEPT).

a. Personnel evaluations are designed to provide information for continuous improvement of performance and to provide a record for personnel decisions. Evaluations shall be based upon the following standards:

Knowledge of Curriculum: The teacher demonstrates:

- Knowledge of state and national standards.
- Knowledge of state and national curriculum frameworks.
- Knowledge of school and grade level curriculum.
- Development of unit plans as determined by a faculty guideline for mastery learning.

Effective Use of Instructional Systems: The teacher demonstrates this through:

- Application of different teaching strategies.
- Knowledge of student learning styles based on accommodation plans.
- Knowledge and use of multiple forms of student assessment.
- Use of a variety of materials and technology in the learning process.
- Use of a variety of teaching strategies to identify and eliminate skill deficiencies.
- Providing students with the opportunity to be self directed learners.
- Collaboration with other professionals on the staff or under contract.

Management of the Learning Environment: The teacher demonstrates this through:

- Implementation of guidelines found in the school's Staff and Student handbooks.

- Modeling appropriate behavior to students.
- Maintaining classroom routines that support the mission of the school.

Student Assessment Results: The effective teacher:

- Promotes student academic growth and achievement as measured by MAP, HSAP, PACT, and other criterion-reference assessments and state and national assessments.
- Communicates to students and parents according to the team policy.
- Communicates high standards to students.
- Maintains accurate records of student achievement.

Promotes Equity and the Appreciation of Diversity: The effective teacher:

- Encourages students to participate in the full range of programs and activities.
- Develops appropriate teaching, communication and assessment strategies to meet the needs of all students.

Professional Responsibilities: The effective teacher:

- Shows respect for all students, parents and colleagues.
- Maintains professional boundaries with parents, students and colleagues.
- Works collaboratively with colleagues and others.
- Develops and implements a Professional Development Plan.
- Demonstrates receptivity to suggestions for growth and improvement.
- Demonstrates the ability to use available resources.

b. The principal and/or the vice principal of the school will serve as the teacher's primary evaluator.

c. The evaluation cycle will consist of the following:

- Annual self evaluation by the teacher using professional standards prior to the beginning of the school year.
- Goal setting with the principal, during the first month of the school year, that includes a review of student achievement, the school's charter/mission, the teachers' self evaluation and the school's accountability plan.
- A professional development plan developed by the teacher in concert with the goal setting process.
- At least three (3) classroom observations each year.

d. The teacher and principal may also agree to peer evaluations as part of the annual process. The teacher may choose the peers. Observations will be followed by a conference between the teacher and the principal. A written summary of the observation and the conference will be provided by the principal to the teacher for review and signature. A copy of the review will be filed in the teacher's personnel file. The teacher may attach comments. At the final conference of the year the principal and teacher will discuss goals for the next school year. Board policy states that if there are concerns about a teacher's performance or if an employment decision needs to be made, a formal evaluation process will be used.

3. Terms and Conditions of Employment

CCSMS Charter Committee members and subsequently members of the school's Board of Directors will approve the terms of employment for all employees. These terms will comply with Para 41-10-30 of the SC Code of Laws, 1976../../../../../../../Documents and Settings/Local Settings/Temporary Internet Files/OLK1A9/2007 Charter Narrative May 11.doc - _msocom_9#_msocom_9#_msocom_9#_msocom_9. The Terms and Conditions of Employment will be included in the employment agreement for the Charleston Charter School for Math and Science, Inc. with:

- Pay Date Information
- Salary Schedule
- Vacation Days
- Holidays
- Sick Leave
- Severance Pay
- Deductions
- Three Day Deadline for Notification of Absences
- Tuberculin Skin Test (Form 1420):
- South Carolina Teaching Credential (if applicable)
- Additional Terms of Employment
- SLED Check

Official personnel records for all employees of CCSMS will be maintained in the Charleston Charter School for Math and Science, Inc administrative office using

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appropriate security measures. Personnel files will contain signed employment agreement; credentials and certifications or professional tests, if applicable; academic transcripts; health certificates; birth certificate; social security number; Employment Eligibility Form; benefits declarations; signed terms of employment form; signed receipt of employee handbook; evaluation documentation and commendations; and other official correspondence.

The official personnel records necessary for executing contracted and support services from the Charleston County School District will be maintained in the Charleston County School District's Human Resource Office.

An employee handbook outlining policies and procedures will be developed and approved by the Charter Committee and subsequently the school's Board of Directors. This handbook will be given to all employees and updated annually. Employees will sign a statement indicating their receipt of the handbook and acceptance of the policies/procedures contained in it. The Employee Handbook will include personnel policies and procedures. All policies and procedures will comply with South Carolina State and US Federal Laws.

M. Grievance and Termination Procedures

An employee handbook outlining policies and procedures will be developed and approved by the Charter Committee and subsequently the school's Board of Directors. This handbook will be given to all employees and updated annually. Employees will sign a statement indicating their receipt of the handbook and acceptance of the policies/procedures contained in it. The Employee Handbook will include personnel policies and procedures. All employees of the School are considered employees at will, as defined by the laws of the State of South Carolina unless modified in writing by contract and approved by the Board.

1. Teacher Employment and Dismissal Procedures

Charleston Charter School for Math and Science of the Charleston County School District expects to have certain reasonable policies and rules for the conduct of our school. The most important rule is the "rule of reason." There are a few basic rules that should not be violated under any circumstances. Violation of these basic rules may lead to discipline, up to and including immediate termination: substance abuse; insubordination; bad attitude; poor performance; theft; threats and weapons in the workplace; harassment; absenteeism and tardiness; misuse of property; fraud, dishonesty and false statements; violation and/or lack of enforcement of school rules; and breaching confidentiality.

This list is not all-inclusive and there may be other circumstances for which employees may be disciplined, up to and including immediate termination. CCSMS retains the

discretion at all times to immediately terminate an employee or to decide what level or type of discipline is warranted, if any. Employees of CCSMS are at-will employees and can be terminated at any time, without resorting to any type of discipline. CCSMS does not have to use any of the following steps of discipline, and does not have to use them in any particular order, but retains the discretion at all times to determine the nature and severity of discipline and/or termination.

In the event it becomes necessary to discipline an employee, the following steps of discipline may occur at the discretion of the Charleston Charter School for Math and Science:

1. Verbal warning.
2. Written warning.
3. Final warning and/or probation.
4. Termination.

The principal will give written notice to the teacher of intent not to offer an employment agreement no later than April 15 of each year.

2. Employment and Dismissal Procedures for Administrative, Paraprofessional, and Non-teaching Staff

Charleston Charter School for Math and Science of the Charleston County School District expects to have certain reasonable policies and rules for the conduct of our school. The most important rule is the "rule of reason." There are a few basic rules that should not be violated under any circumstances. Violation of these basic rules may lead to discipline, up to and including immediate termination: substance abuse; insubordination; bad attitude; poor performance; theft; threats and weapons in the

workplace; harassment; absenteeism and tardiness; misuse of property; fraud, dishonesty and false statements; violation and/or lack of enforcement of school rules; and breaching confidentiality.

This list is not all-inclusive and there may be other circumstances for which employees may be disciplined, up to and including immediate termination. CCSMS retains the discretion at all times to immediately terminate an employee or to decide what level or type of discipline is warranted, if any. Employees of CCSMS are at-will employees and can be terminated at any time, without resorting to any type of discipline. CCSMS does not have to use any of the following steps of discipline, and does not have to use them in any particular order, but retains the discretion at all times to determine the nature and severity of discipline and/or termination.

In the event it becomes necessary to discipline an employee, the following steps of discipline may occur at the discretion of CCSMS:

1. Verbal warning.
2. Written warning.
3. Final warning and/or probation.
4. Termination.

Administrative, paraprofessional, and non-teaching staff will receive written notice from the principal of intent not to offer an employment agreement no later than June 15 of each year.

Grievance Procedure

In the interest of effective personnel management, the administration and Board recognizes the need for a personnel grievance procedure to provide prompt and effective means of resolving any differences that may arise among our personnel, be it

between employees or between employees and administrators. Such procedure would be available to all employees, regardless of whether they are teaching employees or staff.

1. Charleston Charter School for Math and Science ("the School") does not follow the statutory provisions of Article 5, Chapter 25 of Title 59 of the South Carolina Code of Laws, (1976 as amended), concerning the Employment and Dismissal of Teachers.

2. All employees of the School are considered employees at will, as defined by the laws of the State of South Carolina unless modified in writing by contract and approved by the Board.

3. The School has adopted the following Grievance and Hearing Procedure for the employees of the School. The Procedure is as follows:

a. School employees are encouraged to discuss any concerns regarding his or her employer with the employer's immediate supervisor. This discussion should occur within ten working days after the event/action which results in the grievance.

b. Should any issue arise between an employee and the immediate supervisor, including, but not limited to performance evaluations and decisions to terminate the employee's services, that cannot be resolved, then the employee may reduce his or her concerns in writing and submit this writing to the school's Principal or the Principal's designee.

c. The Principal or the Principal's designee will meet with the employee within a reasonable time to attempt to resolve the issue. A summary of the discussion and the proposed resolution shall be given to the employee by the Principal or the Principal's

designee within a period not to exceed ten working days after the meeting. The employee shall sign an acknowledgement of the receipt of the proposed resolution.

d. If the employee is not satisfied with the proposed resolution, then he or she may appeal the proposed resolution to the school's Board of Directors ("the Board"). Such appeal must be filed with the Board in writing within five working days of receipt of the proposed resolution. This appeal must contain the following documents: 1) a copy of the original writing stating the dispute, 2) a copy of the meeting summary and the proposed resolution, and 3) a written statement prepared and signed by the employee stating the specific reasons why the proposed resolution is unacceptable. The appeal must be delivered to the Board's legal counsel, and the employee shall be given the name of the Board's current legal counsel upon request.

e. The Board Chair shall select three members of the School's Personnel Committee to review the appeal. This panel, in its sole discretion, may conduct any additional investigation that it deems necessary, including, but not limited to, interviews of the Principal, the employee or any other potential school employees.

f. The panel shall complete its investigation and submit its findings and conclusions to the Board's legal counsel within thirty days of appointment to the panel.

g. The Board's legal counsel shall present the panel's findings of facts and conclusions to the full board at the next scheduled board meeting. The Board shall then decide what action, if any, that it will take concerning this appeal. The employee shall receive the Board's decision in writing, and a summary of any actions that will be taken by the Board, the Principal, or the Principal's designee. The Board shall also provide a copy of the decision to the Principal.

h. If the Board decides to hold a hearing to hear the appeal, then the employee shall be given written notice of the time, date and place of the hearing.

i. The Board will attempt to respond to any appeal filed within thirty days upon receipt of any appeal. However, the Board shall respond to all appeals within forty-five days of receipt. To comply with this time limitation, the Board may call a special meeting for the limited purpose of issuing its decision concerning the appeal.

4. This procedure shall be kept as informal and confidential as reasonably possible.

5. No person associated with a grievance shall be the object of administrative reprisal, sanction, or penalty of any kind for either activating or participating in the grievance procedure.

6. The procedure prescribed herein shall be adhered to in processing employee complaints under Title I of the Education Amendment of 1972 (Sex Discrimination).

7. Because of the Board's desire to resolve grievances and appeals as quickly as possible, there will be no extension of the prescribed time contained in this procedure without a compelling showing of good cause. The purpose of this procedure is to settle personnel grievances and complaints at a level as close as possible to the points of their origin. Proceedings will be informal and confidential whenever possible.

a. An objective of the administration and Board is that the grievance be settled as quickly as possible; therefore, there will be no extension of the prescribed time for moving through the grievance procedure except upon compelling showing of good cause as determined by the Board in its sole discretion. All appeals for such extension of time will be submitted to the Chairperson of the School's Personnel Committee.

N. Student Conduct, Rights, and Responsibilities

Please see Appendix J for those policies adopted from the Charleston County School District's (CCSD) policy governing student conduct and discipline.

Upon enrollment, each student and parent/guardian will be presented with a copy of the CCSMS student handbook, which outlines student rights, responsibilities, and disciplinary measures. Students under expulsion from any other school will be denied admission for the remainder of the school year.

1. Student Conduct.

The following board policies of the CCSD govern student conduct, set clear expectations for student conduct, and identify disciplinary action to be taken by the administration for breaches of the student conduct policy: JIC Student Conduct and JICDA Code of Conduct. Copies of these policies are included in the appendix of the charter school application.

Other student conduct rights and responsibilities policies adopted by Charleston County School District applicable to the charter school are in the appendix. The policies are:

JI	Student Rights and Responsibilities
JIA	Sexual Harassment
JICF	Gangs/Secret Societies
JICFA	Hazing
JICFAA	Harassment, Intimidation or Bullying
JICG	Tobacco Use by Students
JICH	Drug and Alcohol Use by Students

JICI	Weapons in School
JICJ	Possession/Use of Communications Devices
JICJA	Electronic Devices Other Than Cellular Phones
JIH	Student Interrogations, Searches and Arrests
JII	Student Grievances
JK	Student Discipline
JKA	Corporal Punishment/Physical Force

Any amendments adopted by CCSD will be reviewed and considered by CCSMS's board of trustees.

2. Students with Disabilities.

Special education students will be managed on a case by case basis. Based on their individual educational plans (IEP), students shall adhere to the disciplinary code of CCSMS, or will be monitored through the behavior management plan delineated in the IEP. The Charter school's policy on suspension and expulsion of students with disabilities will adhere to the specific procedures for disciplinary actions that involve students with disabilities as outlined in the IDEA 1997 Amendments. The following guidelines will be implemented for compliance:

- School personnel can remove a student with a disability for 10 consecutive days or less at a time for violation of the school code of conduct (to the same extent applied to children without disabilities). CCSMS shall provide alternative educational services for any days of removal beyond the 10th cumulative day. (7/6/2007 Revision.) School personnel can immediately

- remove up to 10 consecutive school days or less, the same child for separate incidences of misconduct.
- School personnel can also order a change of placement of a child with a disability to an appropriate interim alternative educational setting for up to 45 days for possession of weapons or drugs or the solicitation or sale of controlled substances while at school and school functions.
- If school personnel believe that a child is dangerous to himself/herself or others, they can ask a hearing officer in an expedited due process hearing to remove a student to an interim alternative educational setting for up to 45 days.
- 45-day interim alternative educational placements can be extended in additional 45-day increments if the hearing officer agrees that the child continues to be substantially likely to injure himself/herself or others if returned to his or her prior placement.
- School personnel can remove a child with a disability, including suspending or expelling for behavior that is not a manifestation of the child's disability, to the same extend as is done for children without disabilities, for the same behavior.
- School personnel can report crimes to appropriate law enforcement and judicial authorities.

School personnel can always ask the court for a temporary restraining order to protect a child or adults from harmful behaviors. (See IDEA Regulations 300.519-529 and 521 d.)

3. Student Rights

The appeals process for students recommended for suspension and expulsion is defined in the School Board Policies JKD-Suspension of Students and JKE-Expulsion of Students. The right to appeal a decision to the charter school's Board of Directors is addressed. The terminology "constituent board" and "county board" in the policies will reference the charter school Board of Directors. The hearing officer referenced in the policies will be appointed by the charter school's Board of Directors. (Also, policy JICI is located in the appendix to indicate that the charter school will provide for the expulsion of any student who brings a firearm to school per South Carolina Code Ann. § 59-63-235 (Supp. 2001). Policy JRA-Student Records is attached as an assurance that the charter school will comply with the Family Education Rights and Privacy Act (20 U.S.C. §1232).)

4. Parental Notification

Parents and students will be given a copy of the student conduct, rights, and responsibilities policies handbook distributed to all students and parents at the beginning of the school year, through orientation sessions held at the school and classroom levels, and by posting this information on the charter school's website. Parents will be kept notified of any process or actions related to their child during any disciplinary action.

O. Indemnification

The Charleston Charter School for Math & Science, Inc. of the Charleston County School District assumes the liability for the activities of the charter school and agrees to hold harmless the school district, its servants, agents, and employees from any and all liability damage, expense, causes of actions, suits, claims, or judgments arising from injury to persons or property or otherwise that arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school.

P. Insurance

1. Worker's Compensation Insurance

As required by the South Carolina Code of Laws, Title 42-1-10, et seq., the Charleston Charter School for Math and Science (the "Charter School") will provide worker's compensation insurance secured through the insurance agency, Insurance People of NC, Inc., specifically with Utica National Insurance Group. The annual premium for worker's compensation insurance coverage is $7,013.00 based on an estimated annual payroll of $632,000. This coverage agreement obligates the insurer to pay compensation and other benefits as required by the South Carolina Code of Laws; coverage includes bodily injury by accident and by disease. Coverage A does not define a dollar limit as payment is defined by the South Carolina Code of Laws, Title 42-9-10, et seq. Employers Liability, Coverage B, has a policy limit of $500,000 (See Appendix K).

2. Liability Insurance

The Charter School will obtain liability insurance coverage through the South Carolina Insurance Reserve Fund. The policy provides coverage for damages resulting from personal injury or property damage. Coverage meets the limitations set forth by the South Carolina Tort Claims Act, South Carolina Code of Laws, Title 15-78-120; a single person recovery may not exceed $300,000 and a single occurrence recovery shall not exceed $600,000. The annual premium for liability

insurance is estimated at $5,313.00 as provided by the South Carolina Insurance Reserve Fund (See Appendix K).

3. Property Insurance

At the time of this application, the Charter School is researching and evaluating potential property sites for the school. Therefore, the policy quoted and referenced to in this application will apply to solely to the business personal property, with an estimated contents value of $85,000. The estimated annual premium for personal property insurance coverage, obtained through the South Carolina Insurance Reserve Board, is $263.20. Coverage is written on a replacement cost basis and will pay for direct physical loss of or damage to covered property (See Appendix K)

4. Indemnity Insurance

The Charter School will obtain indemnity insurance through the insurance agency, The Insurance People of NC, Inc., with Utica National Insurance Group. The policy will protect the sponsor, the members of the board of the sponsor, and employees of the sponsor acting in their official capacity. This policy will protect the aforementioned entities and person against compensatory damages and legal costs resulting from a claim of negligence or criminal act; specifically employee dishonesty. The limit of this policy is $250,000 with an estimated annual premium of $268.00 (See Appendix K).

5. Automobile Insurance

At the time of this application, an evaluation is still being performed to determine the transportation needs of the Charter School. To demonstrate the Charter School's ability to secure automobile insurance coverage the South Carolina Insurance Reserve Fund has provided a quote. For a limit of $600,000, the estimated annual premium per vehicle is $320.00. For a limit of $1 million, the estimated annual premium per vehicle is $380.00 (See Appendix K).

6. Other Insurance

Other types of insurance that could potentially be needed and obtained, through either the South Carolina Insurance Reserve Fund and/or through another South Carolina licensed insurance company, includes Directors & Officers Liability, Fiduciary Liability, Workplace Violence, Internet Liability, medical professional liability, and activity vehicle AD&D. These items may be acquired based on the completion of this application.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Cynthia L. McNaughton, PLAINTIFF, v. Charleston Charter School for Math and Science, Inc., DEFENDANT.	)	Case No.: 2011-CP-10-01528 **PLAINTIFF'S MEMORANDUM IN SUPPORT OF ATTORNEY FEES PURSUANT TO S.C. CODE § 15-77-300**

FILED
2012 JUN -8 AM 11:51
JULIE J. ARMSTRONG
CLERK OF COURT

A jury trial was held in this case June 4th and 5th, 2012 in the Court of Common Pleas for Charleston County. A verdict was returned for Plaintiff on the only cause of action that went to the jury, her breach of contract claim. Plaintiff now moves for attorney fees pursuant to S.C. Code § 15-77-300. This statute provides in relevant part:

> In any civil action brought by the State, any political subdivision of the State or any party who is contesting state action, unless the prevailing party is the State or any political subdivision of the State, the court may allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:
> (1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and
> (2) The court finds that there are no special circumstances that would make the award of attorney's fees unjust.

(Id., emphasis added)

There are three (3) requirements which must be established before an attorney can recover attorney fees for contesting state action: 1) the contesting party must be the prevailing party; (2) the court must find that the agency acted without substantial justification; and 3) the court must find there are no special circumstances that would make an award of attorney fees unjust. *Heath v. County of Aiken, supra.*

As a preliminary matter, Defendant is a state entity. Per S.C. Code § 59-40-40:

> 2) A charter school:
> (a) is considered a public school and part of the South Carolina Public Charter School District or local school district in which it is located for the purposes of state law and the state constitution
> (emphasis added)

Local school districts are part of the State Department of Education. Under S.C. Code Ann. § 59-17-10, a school district is a body politic and corporate of the State. *Camp v. Sarratt*, 291 S.C. 480, 354 S.E.2d 390 (S.C. 1987). Therefore, Defendant, as part of the Charleston County School District, is also part of State Department of Education.

Here, the Plaintiff is the prevailing party against the Defendant so she has met the first prong of the test. Importantly, a plaintiff does not need to be successful as to all issues in order to be found to be a prevailing party and to be entitled to an award of attorney fees. A prevailing party is defined as the party who successfully prosecutes the action, prevails on the main issue (even if not to the extent of the original contention), and the one in whose favor a verdict is rendered. *Heath v. County of Aiken*, 302 S.C. 178, 394 S.E.2d 709 (S.C. 1990)

Plaintiff has also met the second prong of the test as Defendant acted without substantial justification in pressing its claim against Plaintiff, specifically in terminating Plaintiff's employment. As our Supreme Court noted in the *Heath* case, the United States Supreme Court discussed the definition of "substantial justification" in the context of attorney's fees in *Pierce v. Underwood*, 487 U.S. 552, 108 S. Ct. 2541, (1988), and determined that the term "substantial justification" does not mean justified to a high degree, but only justified in substance. In finding for Plaintiff on her breach of contract claim, the jury found Defendant's act of breaching Plaintiff's employment contract was not substantially justified. *Heath v. County of Aiken, supra* 394 S.E.2d at 711-12; *See also, Layman v. State of South Carolina*, 376 S.C. 434, 451, 658

S.E.2d 320, 329 (S.C. 2008) (no substantial justification when an unambiguous contract breached).

To meet the third prong of the test, this Court must find there are no special circumstances that would make an award of attorney fees unjust. The statute permitting an award of attorney fees states:

> (B) Attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:
> (1) the nature, extent, and difficulty of the case;
> (2) the time devoted;
> (3) the professional standing of counsel;
> (4) the beneficial results obtained; and
> (5) the customary legal fees for similar services.
> The judge must make specific written findings regarding each factor listed above in making the award of attorney's fees. However, in no event shall a prevailing party be allowed to shift attorney's fees pursuant to this section that exceed the fees the party has contracted to pay counsel personally for work on the litigation.

(S.C. Code §15-77-300 (B))

Per the attached retainer agreement, the agreed upon legal fee between Plaintiff and undersigned counsel was 40% of the gross amount recovered. (Retainer Agreement, Exhibit A) The Jury's verdict was $94,735. Forty (40%) percent of that amount is equal to $37,894. Therefore, undersigned counsel is limited to recovery of attorney fees in the amount of $37,894. Per the Affidavit of undersigned counsel (filed simultaneously), undersigned counsel's routine hourly rate is $300.00 per hour. The total number of hours spent on this case as of the date the jury reached its verdict was 134.10, so the total attorney fees amount, calculated by the hour, is $40,230. (Billing Statement, Exhibit B) However, this amount exceeds the amount recoverable under S.C. Code § 15-77-300 (B) ("in no event shall a prevailing party be allowed to shift attorney's fees pursuant to this section that exceed the fees the party has contracted to pay counsel personally for work on the litigation" *Id.*) As the amount Plaintiff contracted to pay

counsel was 40% of her recovery, or $37,894, undersigned counsel is only requesting payment of attorney fees equal to $37,894. The five (5) factors required to prove eligibility for attorney fees pursuant to S.C. Code § 15-77-300 are set forth with more particularity in the Affidavit being filed simultaneously with this Memorandum.

Based on the foregoing, undersigned counsel respectfully requests this Court issue an Order awarding undersigned counsel attorney fees in the amount of $37,894.00 pursuant to S.C. Code § 15-77-300.

FOSTER LAW FIRM, LLC

Nancy Bloodgood

Nancy Bloodgood, Esquire, SC Bar No.: 6459
895 Island Park Drive, Suite 202
Charleston, SC 29492
Telephone: (843) 972-0313
Facsimile: (888) 519-0934
Email: nbloodgood@fosterfoster.com
Attorneys for Plaintiff

Charleston, South Carolina

Date: June 8, 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2011-CP-10- 01528
Cynthia L. McNaughton,	)	
	)	
PLAINTIFF,	)	
	)	**AFFIDAVIT OF NANCY BLOODGOOD**
v.	)	
	)	
Charleston Charter School for Math and Science, Inc.,	)	
	)	
	)	
DEFENDANT.	)	

FILED
2012 JUN -8 AM 11:40
JULIE ARMSTRONG
CLERK OF COURT
BY

I am over the age of eighteen and state under oath as follows:

1. I submit this Affidavit in support of Attorney fees pursuant to S.C. Code §15-77-300.

2. I represented the Plaintiff in this case who was the prevailing party against a state entity. A jury returned a verdict in her favor for $94,735.00 on June 5, 2012, finding Defendant had breached her employment contract.

3. The relevant attorney fees statute is S.C. Code §15-77-300 which states:

> (B) Attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:
> (1) the nature, extent, and difficulty of the case;
> (2) the time devoted;
> (3) the professional standing of counsel;
> (4) the beneficial results obtained; and
> (5) the customary legal fees for similar services.
>
> The judge must make specific written findings regarding each factor listed above in making the award of attorney's fees.

4. I would like to address each of the five factors separately:

R-590

a. Nature, Extent and Difficulty of the Case

A suit against a School is not an easy suit to win as Schools enjoy a good reputation in the community and are generally respected as employers. The original Complaint had four causes of action and Plaintiff survived summary judgment as to all four causes of action before trial. The case was difficult to prepare for and win as most of the witnesses were employees of the School and loyal to the School. There were six (6) depositions taken and counsel, had to become familiar with PACE and ADEPT, as well as the Charter School laws.

b. Time Devoted

The nature of employment cases requires long and intense hours, great risk of no payment, or, at best late payment. "Priority work that delays the lawyers other legal work is entitled to some premium. Additionally, as Plaintiff was unable to pay for any of the necessary expenses in this case, undersigned counsel has advanced, at great risk, all litigation costs. Finally, during the trial, undersigned counsel was unable to handle any other matters and closed the Charleston office as her secretary was needed in Court and the Associate working in her office was on maternity leave and unavailable to help.

Although hours claimed or spent on a case should not be the sole basis for determining a fee, *Electronics Capital Corp. v. Sheperd*, 439 F.2d 692 (5th Cir. 1971), they are a necessary ingredient to be considered. A trial judge should weigh the hours claimed against his or her own knowledge, experience, and expertise of the time required to complete similar activities. *Johnson v. Georgia Hwy. Express, Inc.*, 488 F.2d 714, 717 (5th Cir. 1974); *see also Riverside v. Rivera*, 477 U.S. 5561 (1986). In this case, the Complaint was filed in February of 2011 and tried sixteen months later. Undersigned counsel respectfully submits that her hourly billing statement (attached as Exhibit B to

Memorandum in Support of Attorney Fees) reflects reasonable amounts of time spent on each task over the course of the last sixteen months. Plaintiff is not requesting reimbursement for any costs.

c. Professional Standing of Counsel:

The *Johnson* Court advised that:

> The trial judge should closely observe the attorney's work product, his preparation, and general ability before the court. The trial judge's expertise gained from past experience as a lawyer and his observation from the bench of lawyers at work become highly important in this consideration.

Johnson, 488 F.2d at 718. This factor appears to be one for the Court's sole determination based on its review of counsel's work produce and performance at trial. Undersigned counsel respectfully asserts she has met the Court's expectation as after surviving summary judgment, the Court denied directed verdict and judgment notwithstanding the verdict. Additionally, undersigned Counsel's resume is attached as Exhibit 1.

d. Beneficial Results Obtained:

The result obtained by Plaintiff is higher than the range of outcomes that could have been anticipated at the outset of trial. Defendant filed an offer of judgment before trial for $150.00. Additionally, not until the second morning of trial, did Defendant make the first offer to settle, and that was for the amount of $10,000. Though Plaintiff's actual damages were only $20,620, the jury awarded special damages awarded of $74,115, or 3.6 times greater than the actual damages. A $94,735 verdict is a relatively high verdict in Charleston County and nine times more than what was offered to settle the case.

e. Customary Legal Fees for Similar Services:

The determination of a market rate is an important factor in finding a reasonable hourly rate. *Westmoreland Coal Co. v. Cox*, 602 F.2d 276, 289 (4th Cir. 2010) (citing and quoting

Plyler v. Evatt, 902 F.2d 273, 277 (4th Cir. 1990)). Undersigned counsel regularly charges $300.00 - $350.00 per hour for her hourly clients. "The fact Plaintiff seeks actual billing rates used for all clients strongly favors a finding the rates per se reasonable." *Miller v. HSBC Fin. Corp.*, 3:08-cv-01942-MJP, 2010 WL2722689*2 (D.S.C. July 9, 2010) (citing *Liberty Mutual Insurance Company v. Employee Resource Management, Inc.*, 176 F. Supp. 2d 510 (D.S.C. 2011)). Undersigned counsel has attached an Affidavit from other counsel regarding the reasonableness of her requested fee of #300.00 per hour in a case tried and won in November of 2011. (Exhibit 2)

5. For the foregoing reasons, Plaintiff respectfully requests that this Court amend the Judgment of the jury by making findings of fact regarding the requirements of S.C. Code §15-77-300 and adding $37,894 for attorney fees to the judgment.

FURTHER, YOUR DEPONENT SAYETH NOT.

Nancy Bloodgood

Nancy Bloodgood

Sworn to and subscribed before me
this 7th day of June, 2012.

LARRY A. CROSS

Notary Public for the State of South Carolina
My Commission Expires: July 10, 2012

Nancy Bloodgood

Partner, Foster Law Firm, LLC
phone: (843) 972-0313
email: nbloodgood@fosterfoster.com

Nancy graduated from Georgetown University in 1975 and received her Juris Doctor in 1983 from Catholic University School of Law. She was an Associate Editor of the Law Review. She is a member of the Pennsylvania Bar, the Washington, D.C. Bar and the South Carolina Bar. Prior to joining the firm in 2009, Nancy served as a Deputy County Attorney for Charleston County. She was also a staff attorney for the South Carolina Coastal Council, and from 1986 - 1989 she was in private practice. Nancy is a certified mediator and arbitrator. Nancy currently is Treasurer of the Federal Bar Association's Employment and Labor Law Section. She has served as President of the South Carolina Association of County Attorneys and in 1992 and 1993 she received the National Association of Counties Achievement Award. She is a member of the South Carolina Bar, the Charleston County and Berkeley County Bar Associations, the James L. Petigru Inn of Court, and the Federal Bar Association and focuses her practice on Employment and Labor Law. Nancy has been recognized as one of the top Employment and Labor Law attorneys in South Carolina from 2008 to 2012 in publications of *Super Lawyers*.1

1 Selections are made by Law & Politics, a division of Key Professional Media, Inc. of Minneapolis, Minn. Each year, Law & Politics undertakes a rigorous multi-phase selection process that includes a statewide survey of lawyers, independent evaluation of candidates by Law & Politics' attorney-led research staff, a peer review of candidates by practice area, and a good-standing and disciplinary check. Attorneys do not pay for the honor of inclusion and the only way a lawyer can be included is through the selection process.

Published Works:

"The Current Status of Workers' Compensation Hearing Loss Claims in South Carolina: A Defense Perspective", *Charleston Law Review*, Vol. 2, Fall 2007

"The Abuse of Concurrent Jurisdiction in South Carolina", Charleston School of Law *Maritime Law Review*, 2006

"From War to Work – USERRA's Newly Issued Rules Provide Guidance to Employers", *The Federal Lawyer*, October 2006, Volume 53, Number Nine

Areas of Practice:

Employment Law -- Employee
Americans with Disabilities Act (ADA) -- Employee
Employee Retirement Income Security Act (ERISA) -- Employee
Family Medical Leave Act (FMLA) -- Employee
Pensions, Benefits & Compensations -- Employee
Fair Labor Standards Act (FLSA)
Pregnancy Discrimination
Employee Retirement Income Security Act (ERISA) -- Employee
Health & Health Care Law
Disability
Employment and Labor Law
Administrative Law
Government law

Litigation Percentage:

75% of Practice Devoted to Litigation, remainder to consultation

Bar Admissions:

South Carolina, 1986
Pennsylvania, 1983
Washington, D.C., 1985
U.S. District Court District of South Carolina, 1990
U.S. Court of Appeals 4th Circuit, 1989
U.S. Supreme Court, 1990

Education:

Georgetown University, A.B., 1975
Catholic University School of Law, J.D., 1983

Representative Cases:

Moss v. City of Abbeville, 2010 U.S. Dist. LEXIS 71420 (D.S.C. 2010)
Thomas Francis O'Brien, Jr. v. South Carolina ORBIT, 668 S.E.2d 396 (S.C. 2008)
Tina Thomas v. Reliance Standard Life Ins. Co., 487 F.Supp.2d 697 (D.S.C. 2007)
Peter V. Tetrev v. Pride International, Inc., et al., 2007 U.S. Dist. LEXIS 39728 (D.S.C. 2007)
Steve Dawkins, et al. v. The Owens Corning Hourly Employees' Retirement Plan, 2007 U.S. Dist. LEXIS 73409 (D.S.C. 2007)
Connelly Management, Inc., et al. v. Euan David McNicoll, et al., 2006 U.S. Dist. LEXIS 97580 (D.S.C. 2006)
Lorraine Watkins v. Disabilities Board of Charleston County, 444 F.Supp.2d 510 (D.S.C. 2006)
Medical University of South Carolina v. Dr. Philippe Arnaud, 602 S.E.2d 747 (S.C. 2004)
Sam B. McQueen v. South Carolina Coastal Council, 580 S.E.2d 116 (S.C. 2003)
Earline C. Sabb v. South Carolina State University, 567 S.E.2d 231 (S.C. 2002)
County of Charleston v. Sleepy Hollow Youth, Inc., 530 S.E.2d 636 (Ct. App. S.C. 2000)
Hospitality Association of South Carolina, Inc., et al. v. The County of Charleston, et al., 464 S.E.2d 113 (S.C. 1995)
David H. Lucas v. South Carolina Coastal Council, 424 S.E.2d 484 (S.C. 1992)
Concord Street Neighborhood Association v. George E. Campsen, Jr., 424 S.E.2d 538 (Ct. App. 1992)
F.B.R. Investors, et. al. v. County of Charleston, 402 S.E.2d 189 (Ct. App. S.C. 1991)
John V. Esposito v. The South Carolina Coastal Council, 939 F.2d 165 (4th Cir. 1991)
Allison Brown v. County of Charleston, 399 S.E.2d 784 (Ct. App. S.C. 1990)

Recent Classes/Seminars Taught:

Lorman Education Services, "Employee Discharge and Documentation", 2006 and 2009

Center for Women, "Human Resource Issues", 2008

National College of District Attorneys, "Employment Law Update, Parts I and II", Savannah, Ga. 2008

National College of District Attorneys, "Employment Law Update, Parts I and II", Phoenix, Az. 2007

SC Municipal Clerks & Treasurers, "Election Do's and Don'ts", 2007

Federal Bar Association's 2nd Bi-Annual Labor and Employment Law Conference, "ERISA", San Juan, Puerto Rico, 2007

Municipal Association, "Election Law", 2007

SC Bar/SC Association of Women Lawyers, "The Ladder to Success", 2006

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Natasha Atkinson, Shirley Baisey, Calvin Barton, Quashonda Chapman, Shamika Cureton, Anna Edens, Latoya Jamison, Lisa Jamison, Terrance Johnson, Antonio Miller, Constance Neal, Kelly Pardue, Sherry Peralta, Pamela Vaughn and Pauline Warren, Plaintiffs, V. House of Raeford Farms, Inc. d/b/a Columbia Farms, Inc., Defendants.	C.A. No. 6:09-cv-1901-JMC
Samantha Earle and Shiren Johnson, Plaintiffs, V. House of Raeford Farms, Inc. d/b/a Columbia Farms, Inc., Defendants.	C.A. No. 6:09-cv-3137-JMC

DECLARATION OF ARMAND DERFNER

I, Armand Derfner, make this Declaration pursuant to 28 U.S.C. § 1746.

1. I have been asked to make this Declaration by Nancy Bloodgood in connection with the plaintiffs' petition for attorneys' fees.

R-596

2. I have no personal interest in this case nor in the petition for attorneys' fees.

3. I was first admitted to the Bar of the District of Columbia in 1965 and have been a member of the South Carolina Bar since 1974.

4. I am a graduate of Princeton University (A.B. 1960) and Yale Law School (LL.B. 1963). In 1963-64, I was law clerk to Hon. David Bazelon, Chief Judge of the United States Court of Appeals for the District of Columbia Circuit.

5. I am currently engaged in the practice of law with the firm of Derfner, Altman & Wilborn, in Charleston, South Carolina, specializing in federal litigation and labor and employment matters. During my nearly 50 years of practice in this state and elsewhere, I have been counsel in more than 50 reported cases in state and federal courts, including arguing a number of cases in the Supreme Court of the United States.

6. I have practiced in this city for approximately 40 years, and am acquainted with many members of the local Bar, their reputations and their billing rates.

7. I have known Ms. Bloodgood for approximately 20 years, and know her to be an attorney of outstanding skill, with an excellent reputation at the Bar, particularly in her specialty of labor and employment matters and federal litigation.

8. I understand that Ms. Bloodgood is seeking an award of fees at a rate of $300 per hour, and I believe that this rate is a reasonable rate, actually quite a modest rate, for a lawyer of her experience, reputation and ability. I am familiar with other lawyers of similar experience in this State who charge at that rate or higher, and I believe that an award to Ms. Bloodgood at that rate is in line with, or less than, appropriate rates in this State.

9. I am aware that Ms. Bloodgood has been a practicing attorney for more than 25 years,

that she has rich and varied experience in private practice and as counsel for governmental bodies, and that she has served on the governing boards of groups like the Federal Bar Association and the South Carolina Association of County Attorneys.

10. I am aware that the instant case was a complex case in a highly specialized area of law, which accounts for the length of time it took and for the need to expend substantial attorney hours. Although the monetary amounts at stake were not large in an absolute sense, they were quite substantial in relation to the wages of the low-income plaintiffs. The purpose of providing for court-awarded attorneys' fees under certain statutes is to provide an incentive to bring meritorious cases that might otherwise not be pursued because the damages are limited. In this way, an award of fees is important in carrying out Congress' or the General Assembly's purpose in enacting the statute.

11. In all these circumstances I believe that $300 per hour is a reasonable rate for Ms. Bloodgood in a case like this one.

I declare that the foregoing is true to the best of my knowledge, information and belief.

Executed at Charleston, South Carolina on Nov 29, 2011.

Armand Derfner

Legal Services and Fee Agreement
Contingency Fee

Cynthia Lee McNaughton, hereafter called "Client", does hereby employ and retain Nancy Bloodgood, Esquire and Lucy Sanders, Esquire of the Foster Law Firm, L.L.C., hereafter called "Attorneys", to represent Client as legal counsel to prosecute his or her claim against their employer, insurance company, plan or other entity necessary to the action, as the case may be, for benefits or damages arising out of denial of their claim or adverse employment action.

1. **Power to Settle**. Attorneys will devote their full professional abilities to the case and Client agrees to fully cooperate with the Attorneys handling Client's case. Neither party will settle the case without the other's approval. The Attorneys may, in their absolute and sole discretion, withdraw at any time from the Client's case if, after investigation, the claim does not appear to permit a recovery to the Client, or if the Client has not complied with the terms of this Agreement. Notice of withdrawal shall be sent to the Client by mail and the Client shall retrieve his or her file within 30 days of such notice of withdrawal.

2. **Fee.** The Attorneys fee shall be a contingent fee. The Attorneys fee is outlined as follows: one-third percent (33.3%) of the gross amount recovered before instituting litigation, 40% after litigation begins and 50% if there is an appeal. Attorneys fee will be paid from any settlement, verdict or recovery that is obtained plus the costs and expenses referred to in paragraph 3 below. IN THE EVENT OF NO RECOVERY, CLIENT SHALL OWE THE ATTORNEYS NOTHING FOR SERVICES RENDERED, BUT SHALL REIMBURSE THE ATTORNEYS FOR ALL COSTS AND EXPENSES ADVANCED. Should Client terminate this agreement prior to final conclusion, then the Attorneys shall have the right to be reimbursed for all costs and the reasonable value of the services rendered up to the date of termination.

3. **Costs.** A "cost" related to a law case is any money expended, paid, or charged or payable to a third person for something related to the law case. Costs do not include attorney's fees and are separate from and in addition to attorney's fees. Client is responsible for all the costs associated with your claim. In some instances, costs may be advanced by the Attorneys and then sent to Client for reimbursement. Any costs advanced by Attorneys and not reimbursed when the case is ended shall be paid upon distribution of any monies received by any settlement, judgment or otherwise and costs are in addition to any fees payable. Costs are reimbursed from Client's portion of the monies disbursed.

Costs include, but are not limited to, the following: a.) postage, b.) photocopy expenses, c.) photography expenses, d.) facsimile expenses, e.) telephone and long distance expenses, f.) expenses associated with mediation, g.) overnight express charges, h.) deposition charges, i.) expert witness charges, j.) filing and other fees paid to courts, k.) process server and

other service related charges, l.) medical records procurement fees, m.) doctor(s) charges for opinions and any other monies paid to third persons as a part of your case, and n.) mileage, lodging and travel costs including hotel, airfare, meals, etc. The foregoing is not an exhaustive list of costs. Client will be provided, periodically upon request and at the end of the case, an itemized list of all costs incurred and charged to the file and advanced by Attorneys.

4. **Court Award**. Should the Court award attorney fees to the Client in an amount greater than or equal to the amount provided for in Paragraph 2 above, the full awarded statutory fee shall be paid to the Attorneys in lieu of the fee provided for by Paragraph 2. Should the Court award attorney fees in an amount less than the amount set forth in Paragraph 2, the Court awarded fees shall be applied to the fee then due from the Client, with the remainder to be paid by the Client. It should be anticipated that the Defendant or opposing party may insist on a total or partial waiver of statutory fees and costs in order to settle this case. Client agrees not to waive fees, or if fees are waived, Client agrees to be personally responsible for the fees at the regular hourly rate of the attorney(s) handling the matter, or the fee established by percentages set forth in Paragraph 2 hereto, whichever is higher.

5. **No Recovery Obtained.** If no recovery is obtained, no fee shall be payable to the Attorneys. However, a firm offer of settlement shall be considered a recovery, and the Attorneys shall be entitled to a fee based upon the total amount of any firm offer of settlement. Additionally, if the settlement is rejected by the client against Attorneys' advice and client dismisses the law firm as counsel contemporaneously or thereafter, the Attorneys shall be entitled to a fee based upon the total amount of any firm offer of settlement.

6. Attorneys are authorized to prosecute and pursue such claims on Client's behalf and to affect a compromise, subject to Client's approval, and to institute such legal action as may be advisable in the attorney(s) judgment to enforce Client's rights. The Attorneys will not settle Client's case without Client's approval.

7. **Settlement Disbursements**. Court rules require that all settlements be consummated within 60-days of the date the settlement is entered into by the parties. In other words, the defendant in any lawsuit has up to 60-days to send the settlement agreement and the settlement check. Usually, the defendant will not take the full 60-days and usually there is about a one (1) month turn-around time from the date the settlement is entered into. However, very infrequently, due to special circumstances, it may take more than 60-days to consummate a settlement. Also, the South Carolina Ethics Rules which govern lawyers require that on any settlement check over $5,000.00 that Attorneys deposit the check into a trust account and allow it to "clear" before any money can be distributed. Generally, this occurs within four (4) days after the settlement check is received. Accordingly, if Attorneys receive your settlement check on one day, ordinarily you will not be able to take your money with you on that day. If the check is over $5,000.00, you will have to wait until the settlement check clears the issuing bank and when that is done, Attorneys will issue your proceeds out of its' trust account.

8. **Tax Advice.** Attorneys and Attorneys' staff are not competent to provide tax advice to you regarding taxation issues on any settlement or judgment proceeds or any other monies you may receive. If you have any questions at all regarding whether or not the monies you seek and may receive will be taxable or to what extent they will be taxable, you should consult an appropriate tax professional for such advice.

9. **Associate Counsel**. Client agrees that other counsel may be employed at the discretion and expense of Attorneys and that any attorney so employed may be designated to appear on Client's behalf to undertake Client's representation in this matter. Ordinarily, such attorneys are the attorney who actually referred you to the Foster Law Firm and the attorney you indicated in the "who referred you section" of the intake sheet you completed. Any fees that are paid per this fee agreement will be split with Associate Counsel including the attorney who referred you as you specify in the firm intake sheet (unless you advise to the contrary). By signing below, you acknowledge and agree to the fee arrangement with Associate Counsel. Associate counsel, including your referring attorney, will be just as responsible for your case as is the Foster Law Firm. Although the law firm will handle most "hands on" aspects of the case and litigation, you may communicate with either the Foster Law Firm or the attorney who referred you regarding the case at any time you desire. In no event will the existence of any Associate Counsel, including your referring attorney, who acts with the Foster Law Firm in the prosecution of your case, affect the amount of fees you pay under this contract. The amount of fees you pay is limited to the above. Any agreement between Associate Counsel, including your referring attorney, and the Foster Law Firm will be based upon the specific fee set forth above and will be decided between the Foster Law Firm and Associate Counsel.

10. **Lien on Proceeds**. Attorneys shall have a lien on the benefits or monies procured and recovery for attorneys' fees and costs, and any and all persons to whom this fee agreement may be presented are hereby placed on notice that the above attorney does have a lien on any recovery he shall make as a result of his actions with regard to the above referenced subject matter. Further, any and all insurance companies, benefit plans, or other individuals to whom this fee agreement is presented are hereby put on notice that the Client has irrevocably assigned to the law firm one-third (1/3) of the amount of benefits recovered under, against or from any insurance plan, benefits plan, or self-funded plan which attorney has procured through his efforts. Such lien and assignment attach and are intended to cover any proceeds obtained as a result of settlement, received as a result of the Attorneys efforts to recover said benefits, settlement or judgment or execution upon a judgment.

11. **Authorization to Recognize Assignments.** Client also authorizes Attorneys to recognize and honor any valid written assignments which may be in the file, but payment of assignments is always subordinate to the Attorneys lien created by this agreement.

12. **Attorney(s) Right to Withdraw.** The attorney(s) handling your case may, consistent with rules promulgated by the South Carolina Supreme Court and with any order of a

court or tribunal, withdraw at any time by giving a reasonable written notice. If the attorney(s) withdraw, no fee shall be payable to the Foster Law Firm; however, the Foster Law Firm shall be reimbursed for any and all costs advanced. Client agrees to provide and maintain current address and employment telephone information with the Foster Law Firm, to promptly return letters and or telephone calls requesting contact and to meet with attorney(s) as requested. Client agrees to consider all facts, advice, and recommendations of the attorney(s) handling his or her case in making decisions regarding the case or any related matter. Any failure of the Client to abide by these provisions shall be deemed consent to withdrawal of representation by the attorney(s) and the Foster Law Firm.

13. **Client's Right to Withdraw.** As a Client, you have a right, at any time, you become dissatisfied with the Foster Law Firm's services to inform the Foster Law Firm that its' services are no longer needed and that you wish to terminate this Agreement. In the event that you wish to terminate the relationship with the Foster Law Firm, you will be required to sign a written acknowledgement that the Foster Law Firm will not serve as your attorneys of record any longer and release the Foster Law Firm from further obligations. You will be required to sign a consent order for submission to an appropriate court relieving Foster Law Firm as counsel before your file will be released to you. Should you terminate the attorney/Client relationship then you shall be responsible for paying any costs advanced on the file to the point of the termination before the Foster Law Firm shall be required to release your file. Additionally, should you terminate the relationship after there has been a firm offer of settlement made on the case or a judgment decision, then upon termination, the Foster Law Firm shall have a lien on any potential recovery to the extent of costs plus an attorney's fee based upon the firm offer of settlement only, but not upon any monies that may later be procured on top of the firm offer of settlement that was last made before termination of the relationship between the parties.

14. **File Storage Policy.** Your file will be maintained by Attorneys for a period of no less than 6 years or as provided by the South Carolina Rules of Professional Responsibility. Any time after 6 years, it is subject to destruction without notice to you. For approximately 1year after your case is closed it will be kept on-site at the Foster Law Firm's offices. Thereafter, it will be kept at a storage facility. At some point after expiration of the 6 year period, your file will be destroyed. You have a right to request a copy of your file or certain of the original documents at any point during the pendency of your case or subsequent to the conclusion of your case until your file is destroyed.

15. **Duty to Communicate.** In order to best represent your lawyer must have the ability to meaningfully communicate with you when necessary. Therefore, one of the duties and responsibilities you have in connection with this agreement is to keep the lawyer handling your case or matter informed of your mailing address and other contact information. If at any time during the course of representation, your current address becomes unknown or your lawyer is otherwise unable to contact you, the Foster Law Firm shall be permitted to withdraw from this representation by sending you notice by overnight express mail or U.S. Mail to your last known

address and by depositing with the Clerk of Court in the county of your last known residence any property owned by you in the Foster Law Firm's possession, including but not limited to items of personal property or funds (excluding the file which will be maintained by the Foster Law Firm).

16. **Assignment.** By your signature below, Client hereby irrevocably grants and assigns to Attorneys any and all rights Client has to one-third (1/3) of any benefits or monies that may be paid to Client or on Client's behalf by or from any insurance company, HMO plan, employee benefit plan, employer or other defendant(s) or entity(s) who may be a party or potential party to any lawsuit brought on my behalf by Attorneys under this Agreement. This assignment shall supersede and be superior to any and all assignments previously executed by Client to any individual or entity relating to the same benefits or monies. This assignment cannot be revoked by Client after Client's case has been settled, tried or at such point as monies or benefits have been procured for Client or on Client's behalf.

Client does hereby bind his/her heirs, executors and legal representatives to the terms and conditions set forth herein.

CLIENT AGREES THAT THE ATTORNEYS HAVE MADE NO PROMISES OR GUARANTEE REGARDING THE OUTCOME OF CLIENT'S CLAIM(S).

I have read and understand this Agreement.

Signed this 25 day of January, 2011.
North Charleston, South Carolina

Cynthia Lee McNaughton
Client's Signature

Cynthia Lee McNaughton
Client's Name (Printed)

H. A. McNaughton
Witness

Nancy Bloodgood
Nancy Bloodgood, Partner
Lucy Sanders, Associate
Foster Law Firm

R-603

FOSTER LAW FIRM, L.L.P.

Attorneys and Counselors at Law

I.R.S. ACCOUNT NO. 57-0444937

Cynthia McNaughton
1481 Center Street, Ext. # 201
Mt. Pleasant SC 29464

June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

	Code		Hours
01/07/2011			
	NB	Initial meeting with client	1.40
01/14/2011			
	NB	Telephone conference with Cynthia regarding representation and grievance	0.30
	NB	Review documents for grievance for Cynthia and prepare outline of argument	1.90
01/16/2011			
	NB	Finalize grievance letter; e-mail to Cynthia regarding grievance	1.30
01/17/2011			
	NB	E-mails (x 2) with Cynthia; scan exhibits for grievance letter	0.40
01/20/2011			
	NB	Receive and review e-mail with attachments from Cynthia and reply	0.40
01/24/2011			
	NB	Receive and review additional correspondence from Cynthia regarding grievance	0.20
02/01/2011			
	NB	Meeting with client re litigation; start drafting complaint	2.90
02/03/2011			
	NB	Edit and supplement complaint	1.20
02/05/2011			
	NB	Receive and review damages calculation from client	0.20
02/10/2011			
	NB	Receive and review e-mail from client and prepare letter of representation	0.40

Cynthia McNaughton

June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

		Hours
02/18/2011		
NB	Telephone conference with opposing counsel regarding date of grievance; telephone conference with client regarding grievance date	0.20
02/22/2011		
NB	Receive and review e-mail (x 2) from opposing counsel regarding grievance and reply; e-mail to Cynthia regarding same	0.20
02/23/2011		
NB	Receive and review e-mail from opposing counsel regarding Board meeting and reply (x 2)	0.40
NB	Finalize complaint; telephone conference with Cynthia	1.20
02/24/2011		
NB	Review and supplement complaint	0.30
NB	Research Charter Law and revise complaint; finalize complaint and file	2.40
02/25/2011		
NB	Receive and review e-mail regarding School's Bylaws being changed; review both versions and reply to Cynthia	0.80
04/05/2011		
NB	Receive and analyze answer and send copy to client	0.40
NB	Prepare draft discovery	1.40
04/07/2011		
NB	Supplement discovery requests	1.20
05/18/2011		
NB	Prepare additional discovery requests	0.30
06/21/2011		
NB	Draft Motion to Compel discovery	0.40
06/22/2011		
NB	Review Defendant's responses to discovery re Motion to Compel	0.20
07/05/2011		
NB	Prepare additional discovery requests	0.30

Cynthia McNaughton
June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

			Hours
	NB	Review voluminous discovery responses from School	1.30
07/07/2011	NB	Start drafting deposition questions for Principal and Board Chair	1.60
07/14/2011	NB	Meeting with Cynthia regarding discovery and deposition of principal and edit deposition questions	1.90
07/15/2011	NB	Supplement deposition questions for Principal	1.10
07/18/2011	NB	Assemble deposition exhibits & supplement questions	0.80
07/19/2011	NB	Continue to assemble deposition exhibits and revise questions	0.60
08/04/2011	NB	Review supplemental discovery hand-delivered by opposing counsel (online policies).	0.20
08/05/2011	NB	Meet with client and take deposition of principal and board member.	8.60
08/08/2011	NB	Prepare additional discovery requests	0.90
08/09/2011	NB	Receive and review correspondence from client regarding additional emails and review same	0.30
08/17/2011	NB	Prepare motion for summary judgment	0.70
10/12/2011	NB	Receive and analyze discovery from Atlanta Schools	0.40
11/23/2011	NB	Receive and review email from client regarding reference letter and reply;	

Cynthia McNaughton

June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

		Hours
	email to opposing counsel regarding same	0.40
12/01/2011		
NB	Telephone conference with Dan Austell and prepare draft statement	1.20
12/07/2011		
NB	Correspondence to Don Austell re affidavit	0.20
01/06/2012		
NB	Receive and review email to and from opposing counsel re depositions; Telephone conference with client re same	0.20
01/18/2012		
NB	Prepare draft responses to Interrogatories and Requests to Produce; prepare notice of deposition for Jason Allen and Gail Tolbert; Correspondence to opposing counsel re notice of depositions; Correspondence to client re upcoming deposition/preparation	2.40
01/19/2012		
NB	Edit and supplement deposition questions for Gail Tolbert	0.90
01/20/2012		
NB	Finalize deposition questions for Gail Tolbert and draft letter to opposing counsel regarding outstanding discovery responses (documents referred to in Kirshtein's depo)	1.50
01/23/2012		
NB	Supplement depo questions for Gail Tobert and add additional exhibits; Draft depo questions for Jason Allen and assemble exhibits to use in depo.	4.60
02/08/2012		
NB	Supplement discovery responses	1.10
02/13/2012		
NB	Finalize discovery responses	0.80
02/21/2012		
NB	Prepare for and attend depo of client; revise trial strategy	4.30

Cynthia McNaughton
June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

		Hours
02/22/2012		
NB	Telephone conference with Cynthia regarding issues re Jason Allen	0.30
02/24/2012		
NB	Review correspondence from opposing counsel and respond	0.30
02/26/2012		
NB	Final preparation for deposition of Tolbert and Allen	2.00
02/28/2012		
NB	Meeting with client and attend her deposition	1.60
02/29/2012		
NB	Take depositions of Tolbert and Allen	3.20
03/04/2012		
NB	Receive and analyze Motion for Continuance and Motions for SJ and and start response	0.90
03/05/2012		
NB	Research offer of judgment rules, case law and articles and analyze possible response/action	1.30
NB	Prepare Affidavit for additional facts from deposition	1.40
03/14/2012		
NB	Begin reviewing Defendant's Motion for Summary Judgment and analyzing possible response	1.30
03/15/2012		
NB	Continue drafting outline for summary judgment response	0.30
04/28/2012		
NB	Review file and start drafting SJ Response	1.20
04/30/2012		
NB	SJ Response and assemble exhibits	3.20
05/03/2012		
NB	Finalize Response to Motion for Summary Judgment	3.40

Cynthia McNaughton

June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

		Hours
05/10/2012		
NB	Prepare for trial	2.70
05/11/2012		
NB	Continue to prepare for trial; prepare Exhibit List; pretrial brief and trial questions for witnesses	3.30
05/14/2012		
NB	Attend SJ hearing downtown	1.40
NB	Continue to draft trial questions and organize exhibits	2.60
05/18/2012		
NB	Trial preparation with Cynthia	4.60
05/21/2012		
NB	Revise and edit trial documents and questions for witnesses and exhibits	3.60
05/22/2012		
NB	Trial preparation/exhibits and continue to revise questions	1.60
05/28/2012		
NB	Prepare opening and closing; Work on damages	3.90
05/29/2012		
NB	Additional trial preparation with client	2.40
05/31/2012		
NB	Finalize pre-trial pleadings and trial brief; revise opening and closing statements	2.40
06/01/2012		
NB	Continue trial prep.	2.80
06/03/2012		
NB	Final trial preparation; Telephone conference with Cynthia	2.30
06/04/2012		
NB	Trial and post trial.	14.60

Cynthia McNaughton
June 07, 2012
Our File No. 9457-0000P
Statement No: 3

advice and litigation

			Hours	
06/05/2012				
NB	Trial		9.20	
	FOR PROFESSIONAL SERVICES RENDERED		134.10	40,230.00

FEE SUMMARY

Timekeeper	Hours	Rate	Total
Nancy Bloodgood	134.10	$300.00	$40,230.00

SLED Report	25.00
Trial Exhibits - Staples	38.59
Parking during Trial.	36.00
Parking during Trial.	28.00
Mileage	28.42
Filing Fee	150.00
Service Process Fee	215.00
Deposition Cost	1,824.80
TOTAL COSTS ADVANCED	2,345.81
TOTAL AMOUNT OF THIS BILL	42,575.81
TOTAL BALANCE DUE	$42,575.81

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	NINTH JUDICIAL CIRCUIT
)	
Cynthia McNaughton,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2011-CP-10-1528
)	
Charleston Charter School for Math And Science, Inc.,)	
)	
Defendant.)	
)	

FILED
2012 JUN 12 PM 1:48
JULIE J. ARMSTRONG
CLERK OF COURT
BY

DEFENDANT'S MEMORANDUM OPPOSING AWARD OF ATTORNEY FEES TO PLAINTIFF

COMES NOW Charleston Charter School for Math and Science (hereinafter also referred to as the "Charter School") and opposes Plaintiff's petition for attorney fees because:

-The Charter School is not a state actor, political subdivision or an agency of the State;

-The Charter School acted with substantial justification;

-There are special circumstances that would make the award unjust; and

(Note: This Memorandum is supported by the Affidavit of Dr. Tammy Kirshtein, attached, and the trial record.)

A. The School Is Not A State Actor, A Political Subdivision Or A State Agency.

S.C. Code Section 15-77-300 requires state action before a plaintiff can recover attorney fees:

In any civil action brought by the State, any political subdivision of the State or any party who is contesting state action . . .

The Plaintiff claims that she can recover attorney fees from the Charter School because it is a "state entity." (Pl. Mem. p. 1) The facts, however, show that the Charter School is not a state entity:

1. Plaintiff admits that the Charter School was established pursuant to S.C. Code 59-40-40 et seq. (as amended) ("the Act") (Complaint Para. 2);

2. The Act defines a "charter school" as "a public, nonsectarian, nonreligious, non home-based, nonprofit corporation forming a school which operates within a public school district," S.C. Code Section 59-40-40(1); it does not define the Charter School as a political subdivision or as an agency of the State, there is no state law which defines a charter school as an arm of the State and, although the Charter School is open to the public, there is no evidence that it is a state entity; in other words, there is a world of difference between an entity that is operated for a public benefit and open to the public as opposed to an entity that is a political subdivision of the State;

3. The Charter School is incorporated as a "nonprofit corporation" for a public benefit - it is not incorporated as a state agency or a political subdivision of the State;

4. The Charter School does not "answer" to any entity such as the State of the Charleston County School District; rather, the Charter School "stands alone" and is governed only by its Board of Directors - comprised of the students' parents and a few community members;

5. The Charter School does not receive money from the State, its employees

are not employees of the State and it is not eligible to participate in the State Insurance Reserve Fund or other risk-bearing pool to indemnify it for legal or other claims as are "state supported" public schools; and

6. Unlike traditional public schools, the Charter School does not have the authority to perform governmental functions such as taxing citizens to raise revenue or exercising the power of eminent domain.

This same issue, whether or not the defendant was a state actor for purposes of the attorney fee statute, arose in the case of Willis Const. Co., Inc. v. Sumter Airport Com'n, 308 S.C. 505, 509, 419 S.E.2d 240 (Ct.App. 1992). In Willis the plaintiff argued that the Sumter Airport Commission was a political subdivision of the State for purposes of S.C. Code Section 15-77-300. Affirming the Special Referee's decision to deny attorney fees, the Court of Appeals stated:

> A political subdivision is a division or subdivision of the State invested with governmental functions. Jackson v. Breeland, 103 S.C. 184, 88 S.E. 128 (1916). The Act creating the Sumter Airport Commission does not invest it with governmental functions, such as the ability to raise revenue or the power of eminent domain. We conclude that the phrase "political subdivision of the State" as used in Section 15-77-300 as well as in its ordinary sense does not include within its meaning any entity such as the Sumter Airport Commission.

In the present case, the Charter School Act does not invested in the Charter School any governmental functions that are peculiar to the State or that are peculiar to regular public schools - unlike a regular public school, this Charter School cannot even tax citizens to raise revenue Therefore, the Charter School is clearly nothing more that a non-profit corporation that is open to the public and it is not a "state" actor as alleged by the Plaintiff and cannot be held liable for attorney fees under S.C. Code Section 15-77-300.

The Plaintiff argues that because Section 59-40-40(2)(a) states a "charter school" is to be "considered a public school and part of the school district in which it is located for the purposes of state law and the state constitution," the Charter School is somehow a state actor. If that were true in this case, then wouldn't the Charter School be able to participate in the State Insurance Reserve Fund? Wouldn't it be able to tax citizens in order to raise revenue? Or exercise the power of eminent domain in order to "take" private property for a public use? Because there is no state statute or state law concluding that a non-profit corporation formed for the public benefit is a political subdivision of the State and because a specific statute such as S.C. Code Section 15-77-300 (which requires state action) overrules a general statute such as S.C.Code Section 59-40-40 (2)(b) (S.C. Dep't Soc. Svcs. v. Thar, 439 S.E.2d 854, 312 S.C. 243 (1994), the Charter School simply is not a political subdivision of the State or otherwise a State actor.

B. The Charter School Acted With Substantial Justification.

A plaintiff cannot recover attorney fees if the facts show that the defendant acted with "substantial justification." S.C. Code Section 15-77-300(A)(1). "Substantial justification" means "justified to a degree that could satisfy a reasonable person. An agency action supported by substantial justification is one which ahs a reasonable basis in law and fact." McDowell V. S.C. Dept. of Soc. Svcs., 304 S.C. 539, 542, 405 S.E.2d 830 (1991).

In the present case, the Charter School "switched" the funding from the Plaintiff's employment contract to the employment contract for a new math teacher because two groups of its students performed terribly on a county-wide math test in October 2010. As an initial matter, the Plaintiff's employment contract is specifically contingent on ongoing

"funding" and the Plaintiff admitted on the stand that it was the Principal, and not the Plaintiff, who made all decisions regarding whether or not her position would continue to be funded. Importantly, the Charter School's contract with the school district, i.e., the Charter, requires the School to "focus" on student achievement, ensure compliance and sound fiscal management (Charter p. 107 of 151). Thus, as a legal matter the Plaintiff's employment contract entitled the School to "switch" funding; as a factual matter the School "focused" on student achievement by moving funding from the Plaintiff's position to hire a new math teacher in order to increase student achievement (which decision substantially benefited the math students). Therefore, because the Charter School had the authority and the substantial justification for "transferring" funds to hire a new math teacher, the Plaintiff is not entitled to an award of attorney fees. Accord Simpkins v. City of Gaffney, 315 S.C. 26, 431 S.E.2d 592 (Ct.App. 1993) (attorney fee award affirmed only because the City did not have the authority to deny the plaintiff's permit).

C. Special Circumstances Exist That Would Make An Award Of Attorney Fees Unjust.

When the issue arose regarding whether the School could legally "switch" the funding from one teacher's position to add a math teacher, Dr. Tammy Kirshtein contacted one of the Charter School's Board Members for legal advice - Attorney Bea Whitten - who advised Dr. Kirshtein that based upon the Plaintiff's employment contract and the contingency regarding funding, there were no legal problems. Thus, in light of:

-the students' math scores;

-the terms of the Plaintiff's employment contract which contain a contingency for ongoing funding;

-the two separate glowing letters of recommendation that the School provided to the Plaintiff; and

- the fact that Dr. Kirshtein solicited legal advice before laying-off Plaintiff;

that the Charter's School's actions were performed in good faith and in the best interest of the educational achievements of its students. In such special circumstances it would be manifestly unjust to award attorney fees to the Plaintiff. See, e.g., Dunn v. Dunn, 298 S.C. 499, 381 S.E.2d 734 (1989) (where the plaintiff relied upon her attorney's advice which was offered in good faith, it would be "clearly unjust" to award sanctions.)

D. Conclusion.

For the reasons stated above, the Defendant requests that this Court DENY Plaintiff's request for an award of attorney fees.

Respectfully submitted.

Thomas Bailey Smith/S.C. Bar No. 066246
Attorney for Defendant
SMITH LAW FIRM, P.A.
6326 St. Andrews Road
Columbia, SC 29212
803-740-0961
tsmithlawfirm@aol.com

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Cynthia McNaughton,

Plaintiff,

v.

Charleston Charter School for Math And Science, Inc.,

Defendant.

Case No. 2011-CP-10-1598

FILED
2012 JUN 12 PM 1:48
JULIE J. ARMSTRONG
CLERK OF COURT
BY

CERTIFICATE OF SERVICE

By signing below I hereby certify that I have this 12th day of June, 2012, served via hand delivery the Defendant's Memorandum Opposing Award of Attorney Fees to Plaintiff as follows:

Nancy Bloodgood, Esq.
Lucy C. Sanders, Esq.
FOSTER LAW FIRM, LLC
895 Island Park Drive, Ste. 202
Daniel Island, SC 29492

Thomas Bailey Smith, Esq.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
Cynthia McNaughton,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2011-CP-10-1528
	)	
Charleston Charter School for Math And Science, Inc.,	)	
	)	
Defendant.	)	
	)	

FILED
2012 JUN 12 PM 1:49
JULIE J. ARMSTRONG
CLERK OF COURT
BY

AFFIDAVIT

Personally appeared before me the undersigned individual who swears under oath as follows:

1. My name is Tammy Kirshtein, I am over the age of 18 and I have personal knowledge of all facts herein.

2. I am the Principal for the Defendant.

3. Neither I nor any of the Charter School's employees are employed or paid by the State of South Carolina, the Charter School is governed by a Board of Directors comprised of parents and community members which act pursuant to a contract with the Charleston County School District, the Charter School is a non-profit corporation formed for a public benefit and is not a state actor, political subdivision or an agency of the State, the Charter School cannot perform any governmental functions such as taxing citizens to raise revenue or exercising the power of eminent domain, the Charter School is not eligible to participate in the State Insurance Reserve Fund or other risk-bearing pool to indemnify it for legal or other claims as are traditional "state supported" public schools but is required by contract to maintain liability insurance (there is no insurance coverage in this case for breach of contract) through third-party insurers.

4. The Charter School "switched" funding from the Plaintiff's employment contract to the employment contract for a new math teacher because two groups of students performed terribly on a county-wide math test in October 2010 and it was in the students' best educational achievement interest to require them to take more math classes.

5. The Plaintiff's employment contract is specifically contingent on ongoing "funding" and the Plaintiff admitted on the stand that it was the Principal, and not the Plaintiff, who made all decisions regarding whether or not her position would continue to be funded - and there was insufficient funds in the Charter School's budget for teachers' salaries to continue to employ the Plaintiff and also to hire an added math teacher.

6. The Charter School's contract with the school district, i.e., the Charter, requires the School to "focus" on student achievement, ensure compliance and sound fiscal management (Charter p. 107 of 151); it would not have been sound fiscal management to hire an extra math teacher and also to keep all of the other teachers who were on the Charter School's payroll.

7. Before I made the decision to switch funding from Plaintiff's position to hire an added math teacher, I contacted one of the Charter School's Board Members for advice - Attorney Bea Whitten - who advised me that based upon the Plaintiff's employment contract and the contingency regarding funding, there were no legal problems to switch the funding from the Plaintiff's position to hire an added math teacher.

8. As a result of hiring the added math teacher, the students' math scores improved significantly on the county-wide test.

9. Attached hereto are accurate copies of the Charter School's business records and page 107 of its Charter.

10. Further affiant saith not.

Date: 6-12-12

Tammy Kirshtein

SWORN AND SUBSCRIBED before me
This 12th day of June, 2012.

Notary Public, State of South Carolina

Comm. Exp. 3/15/16

candidates of the governing board will be accepted and individuals nominated will be contacted to ensure their willingness to serve. Names of nominated individuals who have indicated their willingness to serve on the school's governing board will be placed on a form to be sent home with every student in the school and given to every school employee.

Employees will be given one vote. Parents or guardians of a student shall have one vote for each student enrolled in the charter school (Section 59-40-50 of the Charter School Act of 1996). The deadline for voting will clearly be stated on the ballot form. At the first board meeting of newly elected directors, the Board of Directors will elect officers. The elected governing board will be re-elected annually.

b. Board of Directors Responsibilities

The Board of Directors is the governing board for Charleston Charter School for Math and Science and will govern in accordance with the Charter School Act of 1996) The board's focus is student achievement, ensure compliance and sound fiscal management. The Board:

- Establishes policies for the governance in accordance with national, state and local laws governing public charter schools in South Carolina.
- Hires, evaluates, retains, and removes the school principal.
- Develop a policy that will grant the principal the authority to employ and contract with teachers and non-teaching employees and over see day to day operations of the school.

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
NONPROFIT CORPORATION
ARTICLES OF INCORPORATION

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE

TYPE OR PRINT CLEARLY IN BLACK INK

JAN 31 2007

Pursuant to Section 33-31-202 of the South Carolina Code of Laws, as amended, the undersigned corporation submits the following information:

1. The name of the nonprofit corporation is Charleston Charter School for Math and Science

2. The initial registered office of the nonprofit corporation is 111 Broad Street (Street Address)

Charleston	Charleston	SC	29401
City	County	State	Zip Code

The name of the registered agent of the nonprofit corporation at that office is

Park R. Dougherty
Print Name

I hereby consent to the appointment as registered agent of the corporation.

Park R. Dougherty
Agent's Signature

3. Check "a", "b", or "c" whichever is applicable. Check only one box:

a. ☑ The nonprofit corporation is a public benefit corporation.

b. ☐ The nonprofit corporation is a religious corporation.

c. ☐ The nonprofit corporation is a mutual benefit corporation.

4. Check "a" or "b", whichever is applicable:

a. ☐ This corporation will have members.

b. ☑ This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is

111 Broad Street	Charleston	Charleston	SC	29401
Street Address	City	County	State	Zip Code

6. If this nonprofit corporation is either a public benefit or religious corporation (when box "a" or "b" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.

a. ☐ Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operat...

070202-0072 FILED: 01/31/2007
CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENC
Filing Fee: $25.00 ORIG

Mark Hammond
South Carolina Secretary of State

DEFENDANT'S EXHIBIT 13

R-621

Charleston Charter School for Math and Science

Name of Corporation

exclusively for such purposes.

b. ☑ Upon dissolution of the corporation, consistent with the law, the remaining assets of the corporation shall be distributed to

The Coastal Community Foundation (Charleston, SC)

7. If the corporation is a mutual benefit corporation (when box "c" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a. ☐ Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. ☐ Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See 33-31-202(c) of the 1976 South Carolina Code of Laws, as amended, the applicable comments thereto, and the instructions to this form)

Charleston Charter School for Math and Science is formed exclusively, in accordance with section 501(c)(3) of the Internal Revenue Code, as an educational organization, specifically a public charter school in Charleston, SC, with the mission of educating students for success in college & careers by providing an innovative learning environment that is academically excellent, developmentally responsive, and socially equitable.

9. The name and address of each incorporator is as follows (only one is required)

Name	Address	Zip Code
Park R Dougherty	111 Broad Street Charleston, SC	29401

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

Name (Only if named in articles) — Signature of director

Name (Only if named in articles) — Signature of director

Name (Only if named in articles) — Signature of director

11. Each incorporator must sign the articles.

Park R. Dougherty

Signature of incorporator

Signature of incorporator

Signature of incorporator

R-622

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Incorporation, Nonprofit Corporation

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

CHARLESTON CHARTER SCHOOL FOR MATH AND SCIENCE, a nonprofit corporation duly organized under the laws of the State of South Carolina on January 31st, 2007, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable, or other eleemosynary purpose.

Now, therefore, I Mark Hammond, Secretary of State, by virtue of the authority in me vested by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto, do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto.

Given under my Hand and the Great Seal of the State of South Carolina this 8th day of February, 2007.

Mark Hammond

Mark Hammond, Secretary of State

DEFENDANT'S EXHIBIT 14

I certify that this Record On Appeal contains all the material proposed to be included by any of the parties and not any other material.

January 29, 2013

Thomas Bailey Smith
1110 Queensborough Boulevard Suite 103
Mt. Pleasant, South Carolina 29464
(843)330-8877
Attorney for Appellant

I certify that this Record On Appeal contains all the material proposed to be included by any of the parties and not any other material.

January 29, 2013

Thomas Bailey Smith
1110 Queensborough Boulevard Suite 103
Mt. Pleasant, South Carolina 29464
(843)330-8877
Attorney for Appellant

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Kristi Lea Harrington, Circuit Court Judge

Case No. 2011-CP-10-1528

Cynthia McNaughton, ...Respondent,

v.

Charleston Charter School for Math And Science, Inc., ...Appellant.

PROOF OF SERVICE

I certify that I have served the RECORD ON APPEAL on the Respondent by hand-delivery this 1st day of February, 2013, at the following address: Nancy Bloodgood and Lucy Sanders, 895 Island Park Drive, Suite 202, Daniel Island, South Carolina 29492.

February 1, 2013

Thomas Bailey Smith
1110 Queensborough Blvd., Ste. 103
Mt. Pleasant, South Carolina 29464
843-388-4657
Attorney for Appellant

RECEIVED
JAN 31 2013
SC Court of Appeals