



The Independent School District of Boise City

8169 West Victory Road
Boise, ID 83709
www.boiseschools.org

(208) 854-4000
FAX (208) 854-4003

June 8, 2022

Idaho Public Charter School Commission
514 W. Jefferson, Suite 303
Boise, ID 8372
Via email: Jenn.Thompson@osbe.idaho.gov

Re: objection to Cardinal Academy request to amend performance certificate

Dear Commissioners,

I am General Counsel for Boise Schools and was asked to submit this formal objection to the request to amend Cardinal Academy's Performance Certificate.

Stated plainly, the Boise School District requests that Cardinal Academy be held to comply with the law. Public records laws, rules against private entities driving management, and the nonappropriation clause in our Constitution are not optional.

As a preliminary issue, our Deputy Superintendent requested Cardinal Academy Board meeting minutes and a copy of the operating agreement with Elevate via email on May 10th. Meeting minutes were posted online thereafter, but the request for the operating agreement was ignored.

As you are aware, Charter Schools are public entities required to comply with Idaho's public records laws. Idaho Code 33-5204(2)(e). When a public record is requested, we are not allowed to ignore the request.

Idaho Code states that each public charter school must be independently accountable for its academic, financial and operational outcomes. Idaho Code 33-5204(b). It also states that if an outside entity is brought in to help manage the program, Charter holders shall retain responsibility for academic, fiscal and organizational operations and outcomes of the school and may not relinquish this responsibility to any other entity. Idaho Code 33-5206(9)(d).

The Charter Commission's meeting packet details a complete abrogation of these legal mandates. All staff were informed that contracts with Cardinal Academy would not be renewed and students were told that the school was closing due to "direct instruction from JKAF leadership to the administrator. It was never discussed by the board and the board did not inform its authorizer of imminent closure as required by IDAPA." JKAF apparently directed the school to close, terminate contracts, and neither the Board nor the Commission was informed.

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JKAF then offered to renew its funding only if Cardinal Academy followed a JKAF plan and contract with Elevate Academy Foundation to run the school. The reports states that a BLUUM representative verbally guaranteed the money to Cardinal at a May 11th meeting.

In the services agreement that is provided in an unsigned format between Elevate and Cardinal, moneys will be paid for “management services provided **from April 2022** through August 2022.” *See* Professional Services Agreement, p. 134, meeting packet. The services being provide by Elevate began before the Board even considered Bluum’s offer.

There is a significant question as to whether that document has already been executed. If it has, it violates the Charter Certificate. If it has not, Cardinal Academy is violating the law by ceding management to Elevate prior to compliance with Idaho Code, and contrary to the Certificate.

Either way, the services have already begun with an expectation for payment. A private entity essentially dissolved the staff, forced the transfer of management to a third party before any Cardinal Academy Board consideration, and now proposes to fund the new entity only if the Board agrees to what has already been done. In the private sector, this is essentially a hostile takeover. It violates Idaho Code 33-5204(b), Idaho Code 33-5206(9)(d) and arguably the Idaho Constitution.

Article VIII, Section 4 of the Idaho Constitution states that no state subdivision may pledge the credit or faith to aid any association or corporation “for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any individual, association or corporation...” Cardinal Academy allowed a private entity to fire its staff, which then essentially force Cardinal to hire another private company to manage and staff the school. Allowing JKAF to bind Cardinal Academy to a contract with Elevate allows JKAF to essentially pledge tax dollars to a private entity.

Coupled with ceding management to a private entity, the same attorney is representing JKAF, Elevate, and Cardinal Academy. Idaho Code states that “Charter holders shall consult legal counsel **independent of the party with whom they are contracting** for purposes of reviewing the school’s management contract and facility lease or purchase agreements...” 33-5206(10).

There is also the requirement that an educational services provider be vetted prior to hiring. Idaho Code requires that “Prior to approval of the charter petition indicating the school board’s intention to contract with an educational services provider, authorized chartering entities shall conduct a **thorough evaluation of the academic, financial and organizational outcomes of other schools that have contracted with the educational services provider and evidence of the educational services provider’s capacity to successfully grow the public charter school while maintaining quality management and instruction in existing schools.**” There is nothing in the Cardinal Academy’s application to indicate that this has been done, and certainly nothing before services began in April.

Cardinal Academy is operating out of compliance with the terms of its existing Performance Certificate, several sections of IDAPA 08.02.04, and in violation of Idaho Code.

Boise Schools would also appreciate the Commission noting that the District has not received adequate time or notice to address the request. The proposal is not timely.

Finally, given the Boise School District is well aware of demographics, and needs of patrons in the area, it is the District's position that Cardinal Academy will not reach enrollment goals consistent with the current plan. It is only a matter of time before Cardinal Academy requests a revision of their Certificate to serve all students, without a track record to indicate any hope for success.

Regards,
/s/
Dan Skinner
General Counsel