



STATE PUBLIC CHARTER SCHOOL AUTHORITY

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**VIA ELECTRONIC MAIL
AND HAND DELIVERY**

December 5, 2018

Jaimarie Dagdagan, Program Analyst
Fiscal Analysis Division

Re: Response to Information Requested by the Interim Finance Committee

Dear Ms. Dagdagan,

This cover letter and attached memorandum shall serve as the State Public Charter School Authority (SPCSA) response information requested by the Interim Finance Committee (IFC) on October 29, 2018.

As a preliminary matter, the SPCSA Board is grateful that the IFC sent the October 29, 2018, inquiry directly to the Board's Chair for a response because it appears that prior correspondence that have been sent to the SPCSA by the IFC have not been provided to the SPCSA Board Chair and/or the SPCSA Board by Director Gavin even when the Board Chair was specifically copied on the correspondence.

The Board has several grave concerns regarding the information that certain members of the SPCSA staff have provided the Legislature. Having reviewed the video of the testimony, the SPCSA Board and Staff assisting with preparing this response note that many of the answers provided to you were incomplete, inaccurate, misleading or false.

First, the SPCSA Board submits that it is important for the IFC to know that the SPCSA Board was not included in the development of and did not otherwise specifically approve the budget request that resulted in four new positions being requested and approved. In fact, the SPCSA Board has been asked to approve budgets without the opportunity to actually review them. We have been told that the budgets are "confidential" and that we were not permitted to review them. The Board questioned this practice in at least two public meetings on the record and certain Board members followed up with Director Gavin privately. In response, Director Gavin

represented that the budget process was dictated by the Governor and that he was just doing what he was told by somebody at the Governor's office. However, having recently interviewed staff at the Governor's office, the SPCSA Board has learned that the Governor's office never gave the direction not to allow the SPCSA Board to review and approve the proposed budget before it was sent to the Governor. In fact, we have learned that other executive agency boards review and approve budgets before submittal to the Governor's office and presented to the Legislature. Based on what we have learned, the SPCSA Board has put a stop to this practice and will review and approve budgets prepared by SPCSA staff before they are submitted to the Governor's office and presented to the Legislature.

Additionally, the "Letter of Intent" dated September 29, 2017, was never given to the SPCSA Board Chair or presented to the SPCSA Board by Director Gavin or staff. In fact, after requesting in private and in our public meetings to see a copy of the "Letter of Intent" over the last few months due to vague references being made by Director Gavin to this letter, the SPCSA Board Chair and Board finally received a copy of it on October 29, 2018. Notably, the SPCSA Board Chair was cc'd on the Letter of Intent; however, the letter was not sent directly to the Board's Chair. Rather, it appears that it was sent to the Authority with, presumably, the expectation that the letter would be shared with the Board Chair. For reasons that are still unclear to the SPCSA Board, the Letter of Intent was never provided to the SPCSA Board Chair or to the Board as a whole for review and discussion.

The IFC should also understand that the responses to the "Letter of Intent" provided to the Interim Finance Committee on February 1, 2018, April 16, 2018, August 1, 2018, and in advance of the Committee's October 24, 2018, meeting were not disclosed to the SPCSA Board or otherwise authorized by the Board. The SPCSA was only recently provided those reports after the SPCSA Board Chair requested them.

Further, the SPCSA Board regrets to inform the IFC that the testimony that was provided to you by certain members of the SPCSA staff regarding what the Board knew, discussed or decided in relation to the "Letter of Intent" was false and misleading. The SPCSA staffer inexplicably blamed the SPCSA Board for staff allegedly not doing school site visits. However, the SPCSA Board was never informed that Staff was not doing "site visits." In fact, the SPCSA Board has never been presented with any information about site visits and the Board has not reviewed or approved a "site visit protocol." Site visits have never been an issue discussed with me in private or in public, nor have they been an issue brought before the SPCSA Board during my two and half years of service on the SPCSA Board. In fact, site visits are not required by any of the SPCSA approved frameworks as was represented to you.

Moreover, the presumption of the IFC that the SPCSA Board actually knew what Director Gavin and certain members of staff serving at his direction were doing (or not doing) and why relative to the concerns raised in the "Letter of Intent," while reasonable, is not accurate. The fact is that the SPCSA Board has been in the dark about what Director Gavin and certain members of staff serving at his direction have been representing to the Legislature regarding the budget and the related "Letter of Intent." This is not the only set of issues that the Board appears to have been kept in the dark about. In fact, the SPCSA Board recently addressed other issues of concern regarding what has not been brought to the SPCSA Board that should have been brought to the

Board at a SPCSA Board meeting in September. See Exhibit 1 (Minutes of September 28, 2018 meeting).

As I am sure you can appreciate, as a Board, we can't act upon what we do not know about.

Additionally, the SPCSA Board can't take ownership over testimony provided to the IFC when the SPCSA Board had no knowledge of (1) the need for testimony; (2) the subject matter to be addressed; and (3) the responses provided at the direction of former SPCSA Executive Director Gavin. However, we can help provide clarity and context on what we understand to be true and correct.

First, the IFC should understand that the representation that was made by a member of SPCSA staff at the direction of former Executive Director Gavin at the October 24, 2018, IFC meeting that a "legal compliance questionnaire" was a part of "the organizational performance framework" is not accurate. The SPCSA Board has not discussed an "organizational performance framework" in any public meeting during my tenure (until it was briefly mentioned in passing at the September 29, 2018, Board meeting). Additionally, the staff person who testified made the representation to the IFC that staff was going to use the compliance questionnaire as a part of staff site visits. In this regard, the questionnaire was to serve as staff's official checklist. However, this testimony is also not accurate. In this regard, the former Executive Director told the SPCSA Board in September that this questionnaire was to be a part of an annual audit conducted by CPAs. Also, the staff member who testified to the IFC did not mention to the IFC that former Executive Director Gavin had failed to bring the legal compliance questionnaire to the SPCSA Board for review and approval before unleashing it onto the schools under our regulatory authority. Instead, the staff member who testified only told the IFC that the SPCSA Board wanted "stakeholder engagement," into what the questionnaire should include or not include. This is partly true, but the direction came on the heels of our entire portfolio of schools complaining to the SPCSA Board that the 19-page questionnaire, a questionnaire the Board never saw or approved, was imposed on them as a part of their annual audits without any advanced discussion, notice or warning and at a significant cost to the schools. This legal compliance questionnaire was not vetted by SPCSA legal counsel, was not discussed with the CPAs being asked to sign off on the questionnaire (who provide the SPCSA an opinion in writing that they would not sign off on such an over-broad questionnaire) and was not discussed with the schools prior to its introduction. See Exhibit 1 (Meeting minutes from the September 28, 2018 meeting addressing legal compliance questionnaire); See Exhibit 2 (Letter from CPAs).

The SPCSA Board respectfully submits that the foregoing context might have been helpful to the IFC. Instead, it appears the IFC was left with the impression that the SPCSA Board had gone rogue and was failing to provide proper oversight to the schools. I agree with Senator Woodhouse that this report was "unconscionable." However, not because of the SPCSA Board's failure, but primarily because of Director Gavin and certain members of his staff's failure to do what they said they were going to do. Clearly, Director Gavin has failed to be accountable, truthful, and transparent with the SPCSA Board and with the IFC.

The SPCSA staff person who testified to the IFC on October 24, 2018 also told the IFC that the SPCSA Board and staff were waiting for the schools to tell us how they should be evaluated.

This is not true. Again, we had several substantive complaints about a 19-page form that was unilaterally imposed upon the schools by former Executive Director Gavin. The Board has been in the process of trying to evaluate those complaints and find out if they have any merit, while at the same time trying to understand why former Executive Director Gavin had acted without SPCSA Board approval and authority when developing and implementing the questionnaire.

With regard to the financial framework, it was former Executive Director Gavin - not the Board - that has delayed in getting the revisions to the financial performance framework completed. Yes, the Board asked for stakeholder engagement so that we could get input into several aspects of the old framework that did not provide an accurate picture of charter school financial performance. We also had a really good discussion on the Board level with specific direction to staff that staff said was helpful and appropriate. That said, the SPCSA Board was ready to have the financial framework on our last agenda for approval and staff asked for more time for reasons that seemed entirely reasonable and appropriate (the opportunity to take FY18 audits and plug them into the new framework, etc.). However, the staff member who testified to the IFC made the false representation to the IFC that the SPCSA Board was delaying action on the financial performance framework until January. This is simply not true. Former Executive Director Gavin has been in control of the timeline, not the Board.

The IFC should have been provided with facts and context about what the SPCSA Board, staff and the stakeholders we serve have been doing with the financial framework and why the work we have been doing was so important. Instead, the member of staff who testified to you made it appear that the SPCSA Board was somehow inhibiting staff from doing the work required of them. This is simply not true.

With regard to the academic performance framework, there is no requirement for site visits despite what was represented to the IFC. Moreover, the SPCSA academic performance framework has been defunct for quite some time. There has not been a rating under this framework for several years, which has been a weakness with regard to how we have held schools accountable during our accountability proceedings. The Board Chair had asked former Executive Director Gavin about getting this revised and implemented for over a year and he has said repeatedly that staff does not have the time or bandwidth to update the academic performance framework and/or calculate ratings under the current framework.

Notwithstanding the testimony provided to you, please be advised that the SPCSA Board has taken immediate steps to address the issues raised by the IFC. Whether we had knowledge of what was communicated to the IFC or not does not absolve us from being accountable to the IFC regarding the work the Authority is doing with the public money provided to fund key positions to get the work done. Enclosed with this cover letter, on behalf of the SPCSA Board and staff, I submit for your review the following answers to the specific questions raised by the IFC.

Very truly yours,

Jason D. Guinasso
Board Chair, State Public Charter School Authority Board

cc: Mark Krmpotic, Senate Fiscal Analyst, Legislative Counsel Bureau
Cindy Jones, Assembly Fiscal Analyst, Legislative Counsel Bureau
Alex Haartz, Principal Deputy Fiscal Analyst, Legislative Counsel Bureau
Sarah Coffman, Principal Deputy Fiscal Analyst, Legislative Counsel Bureau
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