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JUNE 15, 2010

Via Email

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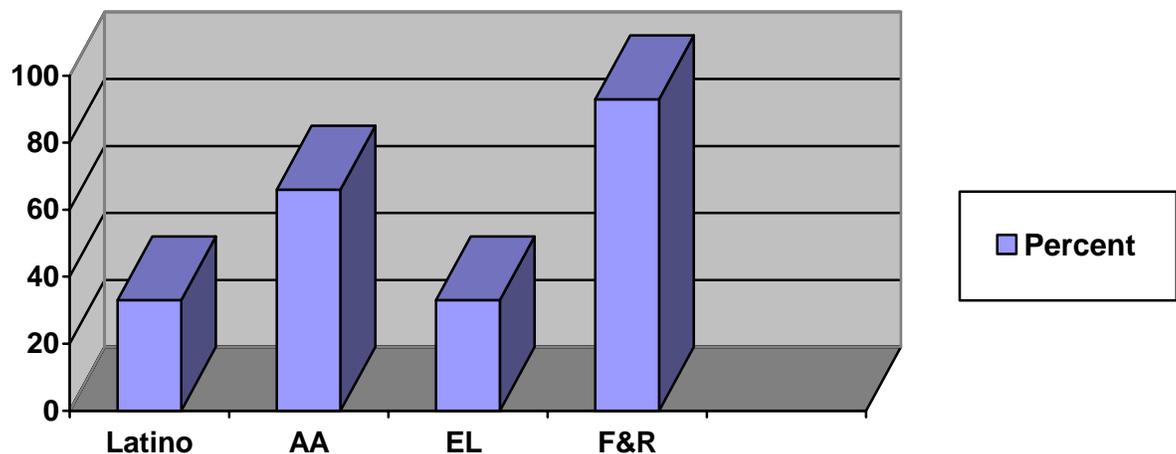
Re: Today's Fresh Start Charter School Charter Renewal Petition Appeal

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Dear Members of the Advisory Commission on Charter Schools:

This office represents Today's Fresh Start Charter School ("TFSCS" or the "Charter School") in its charter renewal petition appeal to the State Board of Education ("SBE"). As you are aware, TFSCS has been operating in Los Angeles County since 2003 and its charter renewal petition was denied by the Los Angeles County Board of Education ("LACBE") on April 6, 2010. The Charter School serves approximately 540 at-risk¹ students in grades K-8 on five campuses within the geographic boundaries of Los Angeles County with the following demographics:

OF COUNSEL
SUZANNE A. TOLLEFSON



¹ The legislature intends a preference to be given for programs that demonstrate the capacity to serve low-achieving pupils (e.g. Education Code Section 47605(h) and 47601.

To summarize, 66% of TFSCS student enrollment is African American, 32% is Latino; 93% are Socio-Economically Disadvantaged and 33% are English Learners.

Due to the limited amount of time for presentation during the Advisory Commission on Charter Schools (“ACCS”) meeting, we prepared this letter to explain some of the most salient points TFSCS will be making during the ACCS meeting. It is our hope that each Member reviews this letter prior to the TFSCS agenda item. To summarize, we will present the following information:

1. The Charter School’s Classification as a “Persistently Lowest-Achieving School” will Almost Certainly be Removed in Two Months with the Release of 2009-2010 API scores.

The California Department of Education (“CDE”) in its staff report on the TFSCS charter renewal appeal, identified the Charter School as one of the five percent persistently lowest achieving schools in California. The CDE staff report also explains how a school receives this designation, including an evaluation of the school’s API scores. If an identified persistently lowest achieving school improves its API score by 50 points or more over a five year period, it will not continue to be identified as a persistently lowest achieving school. The following information was included in the materials from the CDE’s report:

| School Year | TFSCS Base API | TFSCS Growth API | TFSCS Growth |
|-------------|----------------|-------------------------|--------------|
| 2004–05 | 680 | 597 | -83 |
| 2005–06 | 597 | 676 | +79 |
| 2006–07 | 674 | 654 | -20 |
| 2007–08 | 653 | 638 | -15 |
| 2008–09 | 643 | 685 | +42 |
| | | Five-year Growth | +3 |

Some important points regarding this information:

- In its first year of operation, 2003-04, TFSCS tested **52 students**. Its API score for that year, 680, was artificially high due to the low number of students tested. In fact, with such few test takers, the School was not given a similar school’s score as the low enrollment is “numerically insignificant.” In 2004-05, TFSCS tested **129 students** (approximately 100 of whom were new to TFSCS that year), well over double the number of students initially tested in 2003-2004. With the dramatic increase in students came an equally dramatic drop (83 points) in test scores to a level that TFSCS believes serves as a more accurate, and therefore appropriate, base score from which to evaluate students’ academic achievement. The -83 point growth designated in 2004-2005 significantly impacts the calculation shown above. Instead



of **86 points** growth, it reduces the five-year growth to only 3 points. To give any negative import to the relatively low five-year growth of 3 points, is to penalize the School for achievement that occurred five years prior with a population ten times smaller than that served by the Charter School today.

- It is equally important to note that the 83 point drop occurred and was known to LACOE and LACBE before the last charter renewal was granted in September of 2005. Accordingly, LACBE was already given an opportunity to review this drop as part of a renewal, and approved the renewal regardless. **The current term of the TFSCS charter to be considered by the ACCS and the SBE began in 2005-06, thus API score data began with a 79 point gain.**
- Because the persistently lowest achieving schools classification is based upon a five year history of performance, that first dramatic drop serves to artificially pull down the net growth of the Charter School over those five years. Without the 2004-2005 growth of -83 points, the growth over the remaining years is 86 points. When 2009-10 test scores are released in August, the five year history of scores will no longer include 2004-2005 and thus, will not include the initial 83 point drop. The growth will be 86 points, plus or minus the growth score from 2009-2010. **We strongly believe that the 2009-2010 scores will be such that TFSCS' API five-year growth exceeds 50 points, thus its classification as a persistently lowest achieving school will be removed. See below:**

| School Year | TFSCS Base API | TFSCS Growth API | TFSCS Growth |
|-------------|----------------|-------------------------|---------------|
| 2005-06 | 597 | 676 | +79 |
| 2006-07 | 674 | 654 | -20 |
| 2007-08 | 653 | 638 | -15 |
| 2008-09 | 643 | 685 | +42 |
| 2009-10 | 685 | TBD | X |
| | | Five-year Growth | 86 + X |

2. The Charter School Far Exceeds the Threshold for Renewal Pursuant to Education Code 47607 and the School Outscores all but One of the CDE's Comparison Schools

- In the years when TFSCS experienced significant growth (79 points in 2005-06, and 42 points in 2008-09), it ranked in the **top 7%** of schools statewide for growth, and the **top 11%** of schools statewide for growth, respectively.
- Consider the following from the CDE staff report:



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| School | Enrollment / %Non-White | 2009 Base API | 2009 Statewide/Similar Schools Rankings | 2009 AYP | PI Status | % of Students enrolled at TFSCS |
|-----------------------------|-------------------------|---------------|---|----------|-----------|---------------------------------|
| Today's Fresh Start* | 611 / 99.8% | 685 | 1 / 3 | Yes | Yr 1 | 100% |
| Hyde Park Blvd Elementary | 743 / 100% | 590 | 1 / 1 | No | Yr 5 | 6.5% |
| Hillcrest Drive Elementary | 908 / 99.6% | 600 | 1 / 1 | No | Yr 5 | 5.4% |
| Foster Elementary | 684 / 99.4% | 722 | 2 / 4 | Yes | Yr 5 | 4.3% |
| Forty-Second St Elementary | 453 / 98.9% | 665 | 1 / 3 | No | Yr 4 | 4.2% |
| Twenty-Fourth St Elementary | 884 / 99.4% | 657 | 1 / 1 | No | Yr 5 | 4.2% |
| Sixth Avenue Elementary | 779 / 99.8% | 655 | 1 / 1 | No | Yr 5 | 4.0% |
| Audubon Middle | 1,219 / 99.6% | 592 | 1 / 2 | No | Yr 5 | 3.4% |
| Horace Mann Jr High | 1,147 / 99.7% | 556 | 1 / 1 | No | Yr 5 | 2.7% |

* You can see from the above that Today's Fresh Start outscores all but one of the CDE's identified comparison schools, each of which is in PI year 4 or 5 status.

- The CDE's staff report concludes that granting the TFSCS petition is not consistent with sound educational practice, as it presents an unsound educational program. The findings for denial of a charter must be factual and specific to the charter submitted, pursuant to Education Code Section 47605(b). Regulations define sound educational practice as follows: "a charter petition shall be 'consistent with sound educational practice' if, in the State Board of Education's judgment, it is likely to be of educational benefit to pupils who attend." (5 CCR 11967.5.1(a)) Further, Regulations define an unsound educational program as: "(1) A program that involves activities that the State Board of Education determines would present the likelihood of physical, educational, or psychological harm to the affected pupils. [OR] (2) A program that the State Board of Education determines not to be likely to be of educational benefit to the pupils who attend." (5 CCR 11967.5.1(b)) Given these definitions, the CDE's conclusion is not based upon fact and thus does not meet the standard for denial pursuant to Education Code Section 47605(b). Based on the comparison data above, it is clear that TFSCS is providing an educational benefit to students which exceeds that provided by the schools the students would otherwise attend, both schoolwide and by subgroup. Clearly, based upon this data, it follows that no facts support a finding of physical, educational, or psychological harm to the students enrolled in the Charter School.

Below, we have disaggregated the above 2009 growth information by subgroup:



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| School | API Growth Score | API Growth (target) ² | African-American (growth) ³ | Latino (growth) | SES ⁴ (growth) | EL (growth) |
|------------------------------|------------------|----------------------------------|--|-----------------|---------------------------|-----------------|
| TFSCS | 685 | 42 (8) | 677 (48) | 703 (41) | 690 (41) | 724 (49) |
| Hyde Park Elementary | 590 | -13 (10) | 537 (-36) | 619 (2) | 590 (-15) | 606 (3) |
| Hillcrest Elementary | 600 | -9 (10) | 585 (10) | 605 (-40) | 605 (-2) | 579 (-43) |
| Horace Mann Middle | 558 | 19 (13) | 528 (20) | 585 (15) | 563 (27) | 552 (9) |
| Foster Elementary | 722 | 52 (7) | 698 (41) | 725 (52) | 730 (57) | 716 (48) |
| Forty-Second St. Elementary | 665 | -14 (6) | 642 (-23) | 727 (13) | 665(-12) | n/a |
| Twenty-Fourth St. Elementary | 657 | -24 (6) | 616(-23) | 666(-28) | 656(-26) | 649(-16) |
| Sixth Avenue Elementary | 655 | -9 (7) | 626(-6) | 732(-11) | 712(-4) | 714(-22) |
| Audubon Middle | 594 | 20 (11) | 550(4) | 672(42) | 589(18) | 606(40) |

Notable points from the above data:

- With a growth score of 42 points (Base to Growth), TFSC outscored its growth target of 8 by more than five times; exceeding all but one of its comparison schools in growth as compared to target.
- TFSC far exceeds its growth target in all subgroups.
- TFSCS's EL subgroup growth score of 724 was highest amongst all comparison schools.
- TFSCS's African-American subgroup score of 677 was higher than all but one of its comparison schools.
- TFSCS's Socioeconomically Disadvantaged subgroup score of 690 was higher than all but one of its comparison schools.
- TFSCS's Latino subgroup score of 703 was higher than all but three comparison schools.

² The number in parentheses represents the school's growth target set by the CDE for a given year.

³ The number in parentheses represents the school's actual growth from the prior year, for a given year.

⁴ SES is an abbreviation for Socioeconomically Disadvantaged students.

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3) In 2009, the Charter School made AYP Schoolwide and in Every Significant Subgroup

The following is the TFSCS 2009 AYP report from the CDE website:

Made AYP: Yes
Met 21 of 21 AYP Criteria

| | | |
|---|------------------------------|--------------------|
| <u>Met AYP Criteria:</u> | English-Language Arts | Mathematics |
| <u>Participation Rate</u> | Yes | Yes |
| <u>Percent Proficient</u> | Yes | Yes |
| <u>Academic Performance Index (API)</u> | | Yes |
| <u>- Additional Indicator for AYP</u> | | |
| <u>Graduation Rate</u> | | N/A |

Met 2009 AYP Criteria

| <u>GROUPS</u> | <u>Participation Rate</u> | | <u>Percent Proficient</u> | |
|--|---------------------------|-------------|---------------------------|-------------|
| | English-Language Arts | Mathematics | English-Language Arts | Mathematics |
| | Schoolwide | Yes | Yes | Yes |
| African American or Black (not of Hispanic origin) | Yes | Yes | Yes | Yes |
| American Indian or Alaska Native | -- | -- | -- | -- |
| Asian | -- | -- | -- | -- |
| Filipino | -- | -- | -- | -- |
| Hispanic or Latino | Yes | Yes | Yes | Yes |
| Pacific Islander | -- | -- | -- | -- |
| White (not of Hispanic origin) | -- | -- | -- | -- |
| Socioeconomically Disadvantaged | Yes | Yes | Yes | Yes |
| English Learners | Yes | Yes | Yes | Yes |
| Students with Disabilities | | | | |

4) The Achievement of the Charter School Will Continue to Grow

Assuming a successful School Improvement Grant (“SIG”) application, influx of SIG grant monies will provide even more support for the educational improvements TFSCS has begun to implement. TFSCS will be submitting its SIG application to adopt the Transformation model. The purpose of the SIG is to:

Support research-based and effective, sustainable school improvement activities that increase the likelihood that all students learn challenging academic content and achieve proficiency on state assessments in Reading/ Language Arts and Mathematics.

The Improvement Plan is based upon and includes, but not limited to the following:

- *Developing teacher and school leader effectiveness*



1. Increase professional development in Reading/Language Arts and Mathematics
2. Integration of instructional technology tools for intervention and student assessment in core academic areas.
3. Revise policies such that teachers' and leaders' performance evaluations are based in significant measure on student growth;
- *Comprehensive instructional reform strategies*
 1. Add computer labs for computer instruction, science instruction, and remediation in mathematics and reading
- *Extending learning times and creating community-oriented schools*
 1. Increase instructional minutes for reading/language arts and mathematics
 2. Adding summer school program
 3. Adding community learning center with basic literacy and computer classes for parents on Saturday's.
- *Provide operating flexibility and sustained support*
 1. Increase staff to include reading and math specialists

5) LACBE's Denial of the TFSCS Charter Renewal Petition Was Disingenuous

The TFSCS team was not afforded a transparent renewal process by LACBE. Originally approved in September 2003 for a two-year term, the TFSCS charter was renewed in September 2005 with a five year term, (when the Charter School opened an additional site in another school district (Compton)) and was materially revised in August 2009. *The charter petition submitted for renewal in January 2010 was substantially identical to the charter that was renewed in 2005, and to the charter that was materially revised in 2009.* Pursuant to Education Code Section 47607, renewals and material revisions are to be judged using the same standards and criteria of Education Code Section 47605. Thus, a mere eight months after LACBE found the TFSCS charter to meet the standards and criteria of Education Code Section 47605 for a material revision, it found the same charter to be significantly lacking in content in several required elements. This occurrence defies rational logic.

It is our understanding that the Los Angeles County Office of Education ("LACOE") in 2005 encouraged the TFSCS petitioners to shorten their charter for renewal. Following this advice, the petitioners cut a substantial amount of information and attachments from the renewal submission. In September 2005, LACOE made several findings in support of its recommendation for approval of the renewal charter by LACBE, including:

- The educational program describes the core academic program as standards-based...
- Described staff development activities for teachers are appropriate and are designed to further the objectives of the educational program.

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- Curricular materials are available in the core academic subjects and are aligned to grade level standards.
- The petition describes a sound educational program, strategies for monitoring and addressing student needs so that students will meet standards, and curricular opportunities that supplement the core academics, for example, art, community projects, citizenship development.

As stated above, this renewal was granted in September 2005, the year that TFSCS experienced its 83 point drop in API growth. This information would have been known to the Los Angeles County Board at the time of renewal, particularly because the Charter School tested with the County during that year. Despite this information, the renewal was approved with the positive statements noted above. With far more positive academic data in 2010, we find it puzzling that LACBE would now deny this charter renewal.

From an equity standpoint, LACBE should be foreclosed now from finding that the charter renewal petition does not present a sound educational program, that the petitioners are demonstrably unlikely to succeed, and that the petition does not reasonably comprehensively describe the required elements. These are rather surprising findings coming so soon after the approval of a material revision which apparently presented none of the same concerns, but was, by law, to be judged against the same legal criteria.

It is the opinion of our Office that at renewal, authorizers should, and typically do, focus on student achievement more than the contents of the charter document. This is evident in the number of older charters we have operating successfully in the state with charter documents of fewer than 25 pages. At initial establishment, the charter document is of the utmost importance because it is a proposal for a school that has yet to exist. For renewals, authorizers should judge the quality of the program based primarily on what the charter school is actually doing, not based upon a summary in a charter document. **Given the data described above, it is clear that TFSCS has a quality program whose 86 point growth over the last term of the charter and the opportunity it provides its students, should outweigh concerns over the charter document.**

6) The CDE Staff Report Omits Important Information and Includes Information That is Irrelevant to the Renewal of the TFSCS Charter

We respectfully offer two final points. First, the Charter School's written response to LACOE's findings of fact for denial of the charter renewal petition, which was submitted to the CDE for consideration, was not included in the CDE staff report (Addendum 1 to Attachment 2), as is standard CDE practice. The report usually contains: the authorizer's findings; the charter school's response; and the CDE's response. In this case, the report omits TFSCS' response. As such, we respectfully request that ACCS Members carefully review all

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attachments to agenda Item 8, because TFSCS' response is included with the attachments. Second, we find it inappropriate that the CDE staff report raised the issue of charter revocation as pursued by LACBE in 2007-08. TFSCS should not be facing double jeopardy on an issue that already went before the State Board of Education and was litigated to a successful final decision in TFSCS' favor in a court of law. As the charter was restored to good standing, this matter is no longer relevant.

7) The Charter School Will Agree to a Conditional Renewal by the State Board of Education

Myriad options are available for fashioning a recommendation for approval of the TFSCS renewal charter and an approval of the TFSCS renewal charter by the ACCS and SBE, respectively. For example:

- a. The ACCS could recommend that the SBE take action to approve the TFSCS renewal charter conditioned upon the Charter School's exit from the persistently low achieving schools classification when the 2009-10 scores are released.

8) The Charter School Will Agree to the Technical Amendments Recommended by CDE Staff

On behalf of TFSCS, we hereby affirm that the Charter School will accept all technical amendments to its renewal charter as recommended by CDE in its staff report. The Charter School will make such revisions promptly and to the satisfaction of CDE staff.

* * *

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During the course of its seven years of operation, Today's Fresh Start Charter School has served some of Los Angeles County's most needy students. It provides a safe haven for these students. It provides choice and proximity for their parents. It provides jobs for their teachers. It provides a source of community for all who wish to be affiliated with the program. At this renewal, the Charter School asks for a chance to continue the opportunities it provides for its students.

Sincerely,
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