

**IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE**

KNOWLEDGE ACADEMIES, INC.,)
)
Plaintiff,)
)
v.)
)
METROPOLITAN NASHVILLE)
PUBLIC SCHOOLS and THE)
METROPOLITAN NASHVILLE)
PUBLIC SCHOOLS BOARD OF)
EDUCATION,)
)
Defendant.)

Case No. 19-722-II

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COMPLAINT

Plaintiff, Knowledge Academies, Inc. ("KA"), comes and states as follows for its Complaint against Metropolitan Nashville Public Schools ("MNPS") and The Metropolitan Nashville Public Schools Board of Education ("MNPS Board"):

STATEMENT OF THE CASE

1. On June 11, 2019, the MNPS Board held a private, closed meeting during which the MNPS Board deliberated upon, and decided to initiate, a process to close three separate public charter schools owned by KA – Knowledge Academy, KA@ the Crossing, and Knowledge High School (the "KA Schools"). Immediately following the closed meeting, on June 11, 2019, the MNPS Board voted in public session to initiate the school closure process that had been the subject of the private meeting.

2. On June 12, 2019, Dennis G. Queen, Executive Officer of the Office of Charter Schools for MNPS, delivered a memorandum to James B. Bristol, Board Chairman of KA, providing notice of MNPS' intent to recommend a motion to close the KA Schools based upon concerns of violations of KA's charter school agreement and violations of Tennessee charter law—

none of which was discussed in the June 11, 2019, public session.

3. The June 11 deliberations, which were shielded from the public, the decisions made in the June 11 closed meeting, the actions taken the same night in the public session, and the correspondence delivered on June 12 from MNPS to KA are all in violation of the Tennessee Open Meetings Act, Tenn. Code Ann. § 8-44-101, et seq., or flow from deliberations and decisions made in violation of same. Plaintiff, therefore, brings this action to restrain and enjoin MNPS and the MNPS Board from further unlawful actions stemming from the unlawful, private meeting.

PARTIES AND JURISDICTION

1. KA is a not-for-profit corporation incorporated under the laws of Tennessee with its principal place of business at 5320 Hickory Hollow Parkway, Antioch, 37013.

2. KA is party to three charter agreements with MNPS for the KA Schools.

3. MNPS is a subdivision of the Metropolitan Government of Nashville and Davidson County, Tennessee, with its principal offices at 2601 Bransford Avenue, Nashville, TN 37204.

4. The MNPS Board is the governing body of MNPS, organized pursuant to Title 49, Chapter 2, Part 2 of the Tennessee Code Annotated.

5. The Court has jurisdiction in this action, and venue is proper, pursuant to Tenn. Code Ann. §§ 8-44-106(a), 16-1-101, and 16-11-101.

FACTS

6. KA and the MNPS Board entered into a public school charter agreement, MNPS contract number 2-837481-00, with respect to Knowledge Academy, which became effective on December 29, 2011 and which expires on June 30, 2021 ("KA Charter Agreement 00") (attached as **Exhibit A**).

7. KA and the MNPS Board entered into a public school charter agreement, MNPS

contract number 2-837481-02, with respect to Knowledge High School, which became effective on January 20, 2015 and which expires on June 30, 2025 (“KA Charter Agreement 02”) (attached as **Exhibit B**).

8. KA and the MNPS Board entered into a public school charter agreement, MNPS contract number 2-837481-03, with respect to KA@ the Crossing, which became effective on July 1, 2016 and which expires on June 30, 2026 (“KA Charter Agreement 03”) (attached as **Exhibit C**).

9. KA Charter Agreement 00, KA Charter Agreement 02, and KA Charter Agreement 03 are collectively referred to as the “KA Charter Agreements.”

10. In the KA Charter Agreements, the MNPS Board is referred to as the “Chartering Authority” and KA is referred to as the “Sponsor.”

11. KA Charter Agreement 01 contains the following language, in pertinent part:

The Chartering Authority may elect not to renew this Charter Agreement pursuant to TCA § 49-13-121. The Chartering Authority may revoke or terminate this Charter Agreement for any reason set forth in TCA § 49-13-122, and/or for breach of any of the terms and conditions of this Charter Agreement. If the Chartering Authority determines that any grounds for revocation, termination or non-renewal exist, it may revoke, terminate or non-renew this Charter Agreement according to the procedures set forth in TCA § 49-13-121 and TCA § 49-13-122.

(Exhibit A, p. 25, Section 6.1).

12. KA Charter Agreement 02 and KA Charter Agreement 03 contain the following language, in pertinent part:

The Chartering Authority may revoke this Charter Agreement for any reason set forth in T.C.A. § 49-13-122, including a material violation of any of the conditions, standards, or procedures set forth in this Agreement. If the Chartering Authority determines that any grounds for revocation exist, it may revoke this Charter Agreement according to the procedures set forth in T.C.A. § 49-13-122.

(**Exhibit B**, p. 15, Section 11.2; **Exhibit C**, p. 15, Section 11.2).

13. On June 11, 2019, the MNPS Board held a meeting closed to the public at MNPS' Bransford Avenue offices.

14. MNPS did not publish an agenda prior to the closed June 11 MNPS Board meeting.

15. In fact, the only subject discussed during the closed meeting was KA.

16. On June 11, 2019, following the closed session, the MNPS Board met in public session. There was no mention of KA on the agenda published for the June 11 public meeting. During the public session, however, in the "Announcements" section of the meeting agenda, the following colloquy occurred:

MNPS BOARD CHAIR SHARON GENTRY: On to announcements. Mrs. Bush?

MNPS BOARD MEMBER FRAN BUSH: Um, I would like to, uh, give notice, give a notice on the next agenda to take action to revoke Knowledge Academies' charter.

CHAIRWOMAN GENTRY: Other announcements? That it?

17. There was no further discussion of Member Bush's announcement, and she provided no reasons supporting her announcement.

18. When Member Bush made her announcement on June 11, 2019, KA had not initiated, pursued, or threatened to initiate or pursue any litigation, adversary proceedings, or other legal remedies against MNPS or the MNPS Board. Neither had MNPS initiated, pursued, or threatened to initiate or pursue any litigation, adversary proceedings, or other legal remedies against KA.

19. The next day, June 12, 2019, Dennis G. Queen, Executive Officer of the Office of

Charter Schools for MNPS, sent KA a memorandum letter in which MNPS confirmed that Board Member Bush's announcement would cause a matter to be placed on the MNPS Board agenda no sooner than 30 days from June 11 to close the KA Schools. (the "MNPS Letter") (attached as **Exhibit D**).

20. The MNPS Letter stated, in pertinent part:

During the June 11, 2019, board meeting, board member Fran Bush provided notice of intent to recommend to the full board after 30 days, a motion to close all Knowledge Academies Schools (Knowledge Academy, KA@ the Crossing, Knowledge High School) based upon several concerns of violations within the charter contract and Tennessee charter law. We will notify the chartering board once we know the date of the MNPS board meeting where this item will be addressed.

Potential reasons for possible revocation are:

1. School Performance
2. Committed a material violation as set forth in the charter agreement.
3. Failed to meet generally accepted standards of fiscal management.

MNPS Board concerns include but are not limited to:

1. Recent notices of concern regarding academic performance.
2. Engagement with NEI¹ as a CMO prior to MNPS notification or board approval.
3. Concerns about NEI's relationship with Charter Schools USA (for profit).
4. Broad concerns of financial mismanagement.
5. Poor governing board oversight.

It is imperative that our office works with Knowledge Academies to communicate this motion to school staff and families of students who attend the schools. Our office will be reaching out to school leadership on Wednesday June 12, 2019, to co-develop communication for distribution to families.

(Exhibit D at p. 1).

¹ "NEI" is an acronym for Noble Educational Initiative, Inc., a non-profit corporation incorporated under the laws of Delaware with its principal place of business at 600 Corporate Drive, Suite 105, Ft. Lauderdale, FL 33334. On April 2, 2019, KA had entered into a contract with NEI to operate and manage the KA Schools.

21. In fact, Board Member Bush identified no “concerns of violations within the charter contract and Tennessee charter law” in her June 11 public statement. She made no reference to 30 days or any other timeline. She simply announced her intent to schedule a matter “to take action to revoke Knowledge Academies’ charter.”

22. The “potential reasons for possible revocation” and the “MNPS Board concerns” cited in the June 12 MNPS Letter were not discussed in the June 11 public session of the MNPS Board.

23. Later on June 12, in an email sent at 1:55 pm CST, MNPS sent KA a request for documents in connection with the Motion to Close KA Schools (the “MNPS Email”) (attached as **Exhibit E**).

24. The MNPS Email contained the following language, in pertinent part:

In light of the recent board motion, our office is responsible for preparing for the possibility of a closure recommendation from the board. In consultation with Metro Legal, we are requesting the following documents be delivered to the Office of Charter Schools on or before Friday June 21, 2019. If more time is necessary in gathering particular documents, please reach out for an extension.

Please provide hard copies of the following:

1. Record of all former employees not reflected in the school budget and their funding source.
2. Staff payroll information for 2018 and 2019 school year.
3. Emails related to teacher payment to staff for 2018 and 2019 school years.
4. Copy of the board’s policy on contract approval prior to and after Art Fullers being dismissed.
5. Check signing policy/procedure prior to Art and current policy/procedure.
6. List of all vendors contracted where payment has been denied, and the schools follow up plan in addressing their claims.
7. Monthly and quarterly financial reports for 2017-2018, 2018-2019 school years and who was responsible for preparing the reports?
8. Payroll Procedures
9. Organizational chart 2018 and 2019

10. Tax Filing for 2017 and 2018

25. In fact, there was no “board motion” during the June 11 public session of the MNPS Board regarding KA or the KA Schools. There was neither any discussion during the June 11 public session of the MNPS Board regarding any need for documents from KA, nor any discussion of the content of the documents sought in the June 12 MNPS Email.

26. From January 1 to June 11, 2019, the MNPS Board held no publicly noticed meeting discussions regarding KA or the KA Schools.

27. Mr. Queen spoke with Mr. Bristol on the telephone late in the afternoon of June 12 to discuss the document production his email sought. During their conversation, Mr. Queen said he had attended a portion of the private June 11 meeting, during which he was quizzed by MNPS Board members about allegations against KA that had been published in the (Nashville) Tennessean news stories, referenced *supra*. Mr. Queen said that he had responded to the MNPS Board members’ inquiries but added that MNPS did not have enough data to answer the Board members’ questions, hence the request for documents.

CAUSES OF ACTION

COUNT I – VIOLATION OF TENNESSEE OPEN MEETINGS ACT UNDER TENN. CODE ANN. § 8-44-101 et seq.

28. Plaintiff reincorporates the allegations in paragraphs 1 through 27 as if fully set forth herein.

29. The Tennessee Open Meetings Act, Tenn. Code Ann. §§ 8-44-101 et seq. (the “Open Meetings Act”), enacted in 1974, has for nearly a half-century established the policy of Tennessee “that the formation of public policy and decisions is public business and shall not be conducted in secret.” Tenn. Code Ann. § 8-44-101(a).

30. The Open Meetings Act defines a “meeting” as “the convening of a governing body

of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter” must be open to the public at all times.” Tenn. Code Ann. § 8-44-102(b)(2).

31. All meetings of any governing body are always declared to be public meetings open to the public, except as provided by the Constitution of Tennessee. Tenn. Code Ann. § 8-44-102(a).

32. The MNPS Board is a “governing body,” as defined by of the Open Meetings Act. Tenn. Code Ann. § 8-44-102(b).

33. The June 11 private and closed session of the MNPS Board was a “meeting,” as defined by Tenn. Code Ann. § 8-44-102(b)(2). Per Mr. Queen’s admission to Mr. Bristol, the MNPS Board deliberated regarding potential board action against KA, which action the Board, in fact, took, mere minutes later.

34. MNPS and the MNPS Board violated the Open Meetings Act by conducting a meeting of a governing body closed to the public, during which time the governing body deliberated toward a decision on revoking KA’s charters, all in violation of Tenn. Code Ann. § 8-44-102(a).

35. Any action taken at a meeting in violation of the Open Meetings Act is, as a matter of law, void and of no effect. Tenn. Code Ann. § 8-44-105.

36. The action of the MNPS Board in public session June 11, 2019, to schedule a motion “to revoke Knowledge Academies’ charter” is, therefore, void and of no effect, as are the following actions stemming from that action:

- a. The actions of MNPS set forth in the June 12, 2019, MNPS Letter to (a) schedule a motion and time to discuss revocation of KA’s charter and (2) communicate with

families with students attending the KA Schools; and

- b. The action of MNPS in the June 12, 2019, MNPS Email to seek to compel KA to produce voluminous private business records “to prepare for a closure recommendation.”

37. Pursuant to Tenn. Code Ann. § 8-44-106, MNPS is liable to KA for reasonable attorney’s fees and expenses incurred in bringing this action.

38. KA will suffer immediate and irreparable injury, loss, or damage absent injunctive relief in this matter. Accordingly, no adequate remedy at law exists to protect KA’s rights under the Open Meetings Act.

39. Pursuant to Tenn. Code Ann. § 8-44-106(c), the MNPS Board should be preliminarily and permanently enjoined from committing any further violations of the Open Meetings Act by entry of immediate, temporary, and permanent injunctive relief as set forth more fully in the prayer for relief, below.

COUNT II – BREACH OF CONTRACT

40. Plaintiff reincorporates the allegations in paragraphs 1 through 39 as if fully set forth herein.

41. KA and the MNPS Board entered into the KA Charter Agreements, under which MNPS agreed to, for good and valuable consideration, “revoke, terminate or non-renew this Charter Agreement according to the procedures set forth in TCA § 49-13-121 and TCA § 49-13-122” or to “revoke this Charter Agreement according to the procedures set forth in T.C.A. § 49-13-122.” (**Exhibit A**, p. 25, Section 6.1; **Exhibit B**, p. 15, Section 11.2; **Exhibit C**, p. 15, Section 11.2).

42. Tenn. Code Ann. § 49-13-122 limits, by its terms, a chartering authority’s

revocation powers to those set forth in the statute. Under the statute, the chartering authority may only revoke a charter if the school has been placed on the state Department of Education's priority list—which has not happened with KA—or if the school has “(1) Committed a material violation of any conditions, standards, or procedures set forth in the charter agreement; (2) failed to meet or make sufficient progress toward the performance expectations set forth in the charter agreement; or (3) failed to meet generally accepted standards of fiscal management.” Tenn. Code Ann. § 49-13-122(b). Thirty (30) days prior to any decision by a chartering authority “to revoke a charter agreement, the LEA shall notify the charter school in writing of the possibility of revocation and the reasons for such possible revocation.” Tenn. Code Ann. § 122(c).

43. The KA Charter Agreements, in ¶ 11.2, all provide: “If the Chartering Authority determines that any grounds for revocation exist, it may revoke this Charter Agreement *according to the procedures* set forth in T.C.A. § 49-13-122 (italics added).

44. Paragraph 11.3 of the KA Charter Agreements, entitled “Closure and Dissolution,” provides that MNPS may make “timely notification of parents and teachers of the closure decision . . . [i]n the event the Charter School is required to cease operations.”

45. MNPS has yet to follow the procedures required by § 122. It has made no findings in writing, nor has it yet provided KA the requisite thirty-day notice. Further, as required by ¶ 11.3 of the KA Charter Agreements, the KA Schools have yet to be required to cease operations, triggering the parental notification provision.

46. MNPS has, however, indicated in writing to KA that MNPS intends to immediately provide notice to parents of KA Schools' students of its intention to, as Board Member Bush put it, “revoke” the KA Charter Agreements.

47. The deliberations and decisions of the MNPS Board on June 11 in secret make it

highly unlikely, as a matter of law under Tenn. Code Ann. § 8-44-105, that any actions proceeding therefrom are lawful. Given, additionally, the requirements of the KA Charter Agreements and of § 49-13-122, any action by MNPS to frighten families regarding steps MNPS may take—but has not yet taken—would amount to a breach of the KA Charter Agreements.

48. In the event MNPS follows through with its threat to contact students outside the requirements of Tennessee law and the KA Charter Agreements, KA will have been damaged as a result of MNPS's breach of contract in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Knowledge Academies, Inc. respectfully prays that:

- A. Process issue and Defendants be required to answer this Complaint within the time prescribed by law;
- B. This Court find that the conduct of the MNPS Board in holding the June 11 private meeting, described above, constitutes a violation of the Open Meetings Act, Tenn. Code Ann. § 8-44-101 et seq.
- C. A temporary restraining order be issued enjoining Defendants from:
 - a. discussing, deliberating toward a decision, or reaching any decision during private meetings, meetings held in secret, or meetings held without adequate public notice, or otherwise conducting meetings in violation of the Open Meetings Act, Tenn. Code Ann. § 8-44-101 et seq.;
 - b. taking any action to enforce, effectuate, or implement MNPS Board Member Bush's stated intention to schedule a vote to "revoke" the KA Charter Agreements, including but not limited to discussing, referencing, or holding a vote on August 13, 2019, with respect to the KA Schools;

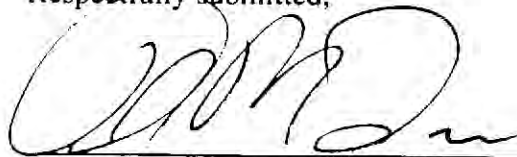
- c. communicating with those students enrolled at the KA Schools or with the families or associates of those students regarding any threatened closure of the KA Schools without first following the requirements of ¶ 11.3 of the KA Charter Agreements and Tenn. Code Ann. § 49-13-122; and
 - d. seeking documents from KA arising out of the decisions and deliberations of the June 11 MNPS Board private meeting.
- D. A temporary injunction and permanent injunction be issued enjoining Defendants from:
- a. discussing, deliberating toward a decision, or reaching any decision during private meetings, meetings held in secret, or meetings held without adequate public notice, or otherwise conducting meetings in violation of the Open Meetings Act, Tenn. Code Ann. § 8-44-101 et seq.;
 - b. taking any action to enforce, effectuate, or implement MNPS Board Member Bush's stated intention to schedule a vote to "revoke" the KA Charter Agreements, including but not limited to discussing, referencing, or holding a vote on August 13, 2019, with respect to the KA Schools;
 - c. communicating with those students enrolled at the KA Schools or with the families or associates of those students regarding any threatened closure of the KA Schools without first following the requirements of ¶ 11.3 of the KA Charter Agreements and Tenn. Code Ann. § 49-13-122; and
 - d. seeking documents from KA arising out of the decisions and deliberations of the June 11 MNPS Board private meeting;
- E. Plaintiff be awarded compensatory or other damages permitted for the Breach of

Contract claim;

- F. Plaintiff be awarded its reasonable attorney's fees and costs pursuant to Tenn. Code Ann. § 8-44-106, and pursuant to the terms of the KA Charter Agreements;
- G. Costs of this cause be taxed to Defendants; and
- H. This Court grant Plaintiff any other relief that it deems just and proper.

THIS IS PLAINTIFF'S FIRST REQUEST FOR EXTRAORDINARY RELIEF IN THIS MATTER.

Respectfully submitted,



Thomas H. Lee, BPR No. 17453
Katharine B. Fischman, BPR No. 36009
FROST BROWN TODD LLC
150 Third Avenue South, Suite 1900
Nashville, TN 37201
Telephone: 615-251-5550
Facsimile: 615-251-5551
tlee@fbtlaw.com
kfischman@fblaw.com

Counsel for Plaintiff, Knowledge Academies, Inc.