

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

DEKALB ACADEMY OF)
TECHNOLOGY AND THE)
ENVIRONMENT, INC. dba DEKALB)
ACADEMY OF TECHNOLOGY AND)
THE ENVIRONMENT, DEKALB)
PREPARATORY ACADEMY)
CHARTER SCHOOL, INC. dba)
DEKALB PREPARATORY)
ACADEMY CHARTER SCHOOL,)
LEADERSHIP PREPARATORY)
ACADEMY, INC. dba LEADERSHIP)
PREPARATORY ACADEMY, PATH)
ACADEMY, INC. dba DEKALB PATH)
ACADEMY, TAPESTRY SCHOOL,)
INC. dba TAPESTRY PUBLIC)
CHARTER SCHOOL, THE GLOBE)
ACADEMY, INC. dba THE GLOBE)
ACADEMY, AND AVONDALE)
EDUCATION ASSOCIATION dba THE)
MUSEUM SCHOOL OF AVONDALE)
ESTATES,)

Plaintiffs,)

v.)

DEKALB COUNTY SCHOOL)
DISTRICT, And CHERYL WATSON-)
HARRIS, in her Official Capacity as)
Superintendent of DeKalb County)
School District, And DEKALB BOARD)
OF EDUCATION, And MARSHALL D.)
ORSON, VICKIE B. TURNER, DIJON)
DACOSTA, MICHAEL A. ERWIN,)
ALLYSON GEVERTZ, STAN O.)
JESTER, and JOYCE MORLEY, in their)
Official Capacities as members of the)
DeKalb Board of Education,)

Defendants.)

Civil Action File No.:
2020CV339543

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW, DeKalb Academy of Technology and the Environment, Inc. (“DATE”), DeKalb Preparatory Academy Charter School, Inc. (“DPA”), Leadership Preparatory Academy, Inc. (“LPA”), Path Academy, Inc. (“Path”), Tapestry School, Inc. (“Tapestry”), The GLOBE Academy, Inc. (“GLOBE”), and Avondale Education Association (“Museum”) (collectively, the “Charter Schools”), the governing entities and charter holders for DeKalb Academy of Technology and the Environment, DeKalb Preparatory Academy Charter School, Leadership Preparatory Academy, DeKalb Path Academy, Tapestry Public Charter School, The GLOBE Academy, and The Museum School of Avondale Estates, respectively, Plaintiffs in the above-styled action, and file this lawsuit against Defendants DeKalb County School District (“DCSD”), Cheryl Watson-Harris (“Watson-Harris”), in her Official Capacity as Superintendent of DeKalb County School District, DeKalb Board Of Education (“DBOE”), and Marshall D. Orson, Vickie B. Turner, Dijon Dacosta, Michael A. Erwin, Allyson Gevertz, Stan O. Jester, and Joyce Morley, in their Official Capacities as members of the DBOE (collectively the “Board Members”), seeking damages related to (1) Defendants’ improper reductions in funding below contractually stated amounts, (2) failure to include the Charter Schools in the E-SPLOST program, and (3) improper withdrawals of administrative fees, all in violation of the Plaintiffs’ individual Charter School Agreements as further defined below. In support of this Complaint, Plaintiffs show this Honorable Court as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff DATE is a locally-approved K-8 charter school authorized by DBOE and the Georgia Department of Education (“GDOE”). It is located at 1492 Kelton Drive, Stone Mountain,

GA 30083.

2.

Plaintiff DPA is a locally-approved K-8 charter school authorized by DBOE and the GDOE. It is located at 1402 Austin Drive, Decatur, GA 30032.

3.

Plaintiff LPA is a locally-approved K-8 charter school authorized by DBOE and the GDOE. It is located at 6400 Woodrow Road, Lithonia, GA 30038.

4.

Plaintiff Path is a locally-approved grades 5-8 charter school authorized by DBOE and the GDOE. It is located at 3007 Hermance Drive NE, Atlanta, GA 30319.

5.

Plaintiff Tapestry is a locally-approved grades 6-12 charter school authorized by DBOE and the GDOE. It is located at 3130 Raymond Drive, Atlanta, GA 30340.

6.

Plaintiff GLOBE is a locally-approved K-8 charter school authorized by DBOE and the GDOE. It has two campus located at 2225 Heritage Drive NE, Atlanta, GA 30345 (lower campus) and 4105 Briarcliff Road, Atlanta, GA 30345 (upper campus).

7.

Plaintiff Museum is a locally-approved K-8 charter school authorized by DBOE and the GDOE. It is located at 923 Forrest Blvd
Decatur, GA 30030.

8.

Defendant DCSD is the local political subdivision governing public education in DeKalb

County, Georgia. It may be served with process by serving Ramona Tyson at 1701 Mountain Industrial Boulevard, Stone Mountain, GA 30083.

9.

Defendant Watson-Harris is sued in her official capacity as the School Superintendent for DCSD. Watson-Harris is responsible for executing, implementing and enforcing the policies, regulations, rules, standards and laws relating to public schools in DeKalb County, Georgia. She may be served with process at 1701 Mountain Industrial Boulevard, Stone Mountain, GA 30083.

10.

Defendant DBOE is the local authorizer for the establishment of charter schools and entered into a charter contract with each Plaintiff. It may be served with process by serving Marshall D. Orson at 1701 Mountain Industrial Boulevard, Stone Mountain, GA 30083.

11.

Defendants Marshall D. Orson, Vickie B. Turner, Dijon Dacosta, Michael A. Erwin, Allyson Gevertz, Stan O. Jester, and Joyce Morley (collectively, the “Board Members”) are sued in their official capacities as members of the DeKalb Board of Education (the “DBOE”). The Board Members are elected officials tasked by the Georgia Constitution with managing and controlling DCSD. The Board Members may be served at the DBOE office, 1701 Mountain Industrial Boulevard, Stone Mountain, GA 30083.

12.

Venue is proper in this Court as each of the Charter Contracts stipulate any action involving the contract is to be brought in the Superior Court of Fulton County.

FACTS

DATE and the DATE Charter Contract

13.

DATE is a K-8 start-up charter school that has been in operation in DeKalb County. It is approved for enrollment of 771 students and currently has approximately 720 enrolled. DATE's stated mission is "to educate a student population about the essential need to consider environmental ramifications of technology and other business decisions via a hands-on, community-oriented instructional curriculum." DATE's curriculum seeks to "motivate students by offering a real world context for learning."

14.

On or around May 4, 2016, DATE entered into a Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2016 to June 30, 2021 (the "DATE Charter Contract").

15.

The DATE Charter Contract provides, among other things, that:

- a) "No party to this Charter may interfere with the legal right(s) and/or obligation(s) of another party to execute the provisions of this Charter."
- b) "The Local Board shall fund the Charter School at no less than a per-pupil base rate of . . . \$8,924 in FY 2021."
- c) "Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their

annual operating expenses.”

- d) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.”
- e) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*”
- f) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.”
- g) “This Charter sets forth the entire agreement between the Petitioner, the Local Board and the State Board with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.”

16.

Moreover, Georgia’s Charter Schools Act is incorporated into the DATE Charter Contract, and as a result, requires DCSD to treat DATE no less favorably than other local schools located within the school system.

DPA and the DPA Charter Contract

17.

DPA is a K-8 start-up charter school that has been in operation since 2012 in DeKalb County. It is approved for enrollment of 389 students and currently has approximately 246 enrolled. DPA's stated mission is to "provide students with a rigorous educational experience designed to enable them to excel in core subjects while developing strong critical thinking and problem solving skills and acquiring a firm grounding in arts, humanities and technology." DPA's curriculum is "deeply rooted in culturally responsive pedagogy that uses project-based learning and audio/video/communications to engage students in the classroom."

18.

DPA entered into the Original DPA Charter Contract on or about April 10, 2012 authorizing it to operate for the term July 1, 2012 to June 30, 2017.

19.

On or around January 26, 2018, DPA amended the Original Charter Contract to extend the charter term two year, through June 30, 2019 (the "Amended DPA Charter Contract").

20.

In 2019, DPA entered into a Renewed Charter Agreement (the "Renewed DPA Charter Contract"), authorizing it to operate for the term July 1, 2019 to June 30, 2022. DPA currently operates pursuant to the Renewed DPA Charter Contract.

21.

The Renewed DPA Charter Contract provides, among other things, that:

- a) "No party to this Charter may interfere with the legal right(s) and/or obligation(s) of another party to execute the provisions of this Charter."

- b) “Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their annual operating expenses.”
- c) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.”
- d) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*”
- e) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.”
- f) “This Charter sets forth the entire agreement between the Petitioner, the Local Board and the State Board with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.”

22.

Georgia’s Charter Schools Act is incorporated into the Original, Amended and Renewed DPA Charter Contracts, and as a result, requires DCSD to treat DPA no less favorably than other local schools located within the school system.

LPA and the LPA Charter Contract

23.

LPA is a K-8 start-up charter school that has been in operation since 2010 in DeKalb County. It is approved for enrollment of 720 students and currently has approximately 447 enrolled. LPA’s stated mission is “to develop scholars through a rigorous academic program that engages all stakeholders by maximizing students’ potential to lead in the 21st century.” LPA’s curriculum focuses on the “four Cs—critical thinking and problem solving, communication, collaboration, and creativity and innovation.”

24.

LPA entered into its First Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2015 to June 30, 2020 (the “First Renewed LPA Charter Contract”).

25.

LPA entered into a Second Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2020 to June 30, 2023 (the “Second Renewed LPA Charter Contract”).

26.

The First and Second Renewed LPA Charter Contracts provide, among other things, that:

- a) “No party to this Charter may interfere with the legal right(s) and/or obligation(s)

of another party to execute the provisions of this Charter.”

- b) “Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their annual operating expenses.”
- c) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.”
- d) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*”
- e) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.”
- f) “This Charter sets forth the entire agreement between the Petitioner, the Local Board and the State Board with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.”

27.

Moreover, Georgia's Charter Schools Act is incorporated into the First and Second Renewed LPA Charter Contracts, and as a result, requires DCSD to treat LPA no less favorably than other local schools located within the school system.

Path and the Path Charter Contract

28.

Path is a grades 5-8 start-up charter school that has been in operation since 2002 in DeKalb County. It is approved for enrollment of 368 students and currently has approximately 405 enrolled. Path's stated mission is "to create a safe and nurturing learning environment in which refugee, immigrant, and local children from the Buford Highway Corridor and Clarkston areas in DeKalb County can develop the knowledge skills, and character needed to succeed in top quality high schools, colleges, and the competitive world beyond, regardless of the socio-economic and linguistic barriers." Path's vision is to "foster[] community stewardship and success."

29.

Path entered into Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2015 to June 30, 2020 (the "Renewed Path Charter Contract").

30.

Path entered into a Second Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2020 to June 30, 2025 (the "Renewed Path Charter Contract").

31.

The Renewed and Second Renewed Path Charter Contracts provides, among other things,

that:

- a) “No party to this Charter may interfere with the legal right(s) and/or obligation(s) of another party to execute the provisions of this Charter.”
- b) “Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their annual operating expenses.”
- c) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.”
- d) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*”
- e) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.”
- f) “This Charter sets forth the entire agreement between the Petitioner, the Local Board and the State Board with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from

entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.”

32.

Moreover, Georgia’s Charter Schools Act is incorporated into the Renewed and Second Renewed Path Charter Contract, and as a result, requires DCSD to treat Path no less favorably than other local schools located within the school system.

Tapestry and the Tapestry Charter Contract

33.

Tapestry is a grades 6-12 start-up charter school that has been in operation since 2014 in DeKalb County. It is approved for enrollment of 266 students and currently has approximately 266 enrolled. Tapestry’s stated mission is “to offer an inclusive, individualized learning environment that is academically engaging, both for neurotypical students and those on the autism spectrum, and to create a positive school culture that empowers all students to take possession of their innate talents and become creative builders of their own futures.” Tapestry follows a “full inclusion” model, where all students benefit from the availability of academic resources within their respective classrooms.

34.

On or around March 5, 2019, Tapestry entered into a Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2019 to June 30, 2022 (the “Renewed Tapestry Charter Contract”).

35.

The Renewed Tapestry Charter Contract provides, among other things, that:

- a) “No party to this Charter may interfere with the legal right(s) and/or obligation(s)

of another party to execute the provisions of this Charter.”

- b) “The Local Board shall fund the Charter School no less favorably than other local schools located within the school system unless otherwise provided by law. . . . [T]he Local Board shall fund the Charter School at no less than a per-pupil base rate of . . . \$13,523.00 as long as the school system receives state and local revenues upon which the approved school budget is based.”
- c) “Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their annual operating expenses.”
- d) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.”
- e) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*”
- f) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.”
- g) “This Charter sets forth the entire agreement between the Petitioner, the Local Board and the State Board with respect to the subject matter of this Charter. All

prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.”

36.

Moreover, Georgia’s Charter Schools Act is incorporated into the Renewed Tapestry Charter Contract, and as a result, requires DCSD to treat Tapestry no less favorably than other local schools located within the school system.

GLOBE and the GLOBE Charter Contract

37.

GLOBE is a K-8 start-up charter school that has been in operation since 2013 in DeKalb County. It is approved for enrollment of 1,248 students and currently has approximately 999 enrolled. GLOBE’s stated mission is to “foster Global Learning Opportunities through Balanced Education for children of all backgrounds.” GLOBE’s curriculum focuses on “dual-language immersion, an experiential-learning model and a constructivist approach” in order to “inspire[] students to be high-performing lifelong learners equipped to make a positive impact in the world.”

38.

On or around March 5, 2019, GLOBE entered into a Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2018 to June 30, 2023 (the “Renewed GLOBE Charter Contract”).

39.

The Renewed GLOBE Charter Contract provides, among other things, that:

- a) “No party to this Charter may interfere with the legal right(s) and/or obligation(s) of another party to execute the provisions of this Charter.”
- b) “The Local Board shall fund the Charter School no less favorably than other local schools located within the school system unless otherwise provided by law. . . . [T]he Local Board shall fund the Charter School at no less than a per-pupil base rate of . . . \$10,313 in FY 2021 . . . as long as the school system receives state and local revenues upon which the approved school budget is based.”
- c) “Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their annual operating expenses.”
- d) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.”
- e) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*”
- f) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.”
- g) “This Charter sets forth the entire agreement between the Petitioner, the Local

Board and the State Board with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.”

40.

Moreover, Georgia’s Charter Schools Act is incorporated into the Renewed GLOBE Charter Contract, and as a result, requires DCSD to treat GLOBE no less favorably than other local schools located within the school system.

Museum and the Museum Charter Contract

41.

Museum is a K-8 start-up charter school that has been in operation since 2010 in DeKalb County. It is approved for enrollment of 588 students and currently has approximately 588 enrolled. Museum’s stated mission is “to inspire students, teachers, and the community to collaborate to develop strong critical thinking, interpersonal, and academic skills in our students which will prepare them for real-world success.” Museum’s curriculum is built on the museum model, which “fosters exploration and discovery, giving students a strong sense of autonomy, interdependence, motivation and a joy for learning.”

42.

On or around April 24, 2017, Museum entered into a Renewed Charter Contract with DBOE and GBOE, which authorized it to operate for the term July 1, 2017 to June 30, 2022 (the

“Renewed Museum Charter Contract”).¹

43.

The Renewed Museum Charter Contract provides, among other things, that:

- a) “No party to this Charter may interfere with the legal right(s) and/or obligation(s) of another party to execute the provisions of this Charter.” Exh. I, § 14(j).
- b) “The Local Board shall fund the Charter School no less favorably than other local schools located within the school system unless otherwise provided by law. . . . [T]he Local Board shall fund the Charter School at no less than a per-pupil base rate of . . . \$9,179 in FY 2021 . . . as long as the school system receives state and local revenues upon which the approved school budget is based.” *Id.* at § 15(c).
- c) “Any surplus funds remaining at the close of each fiscal year will be used to enhance the Charter School's academic program. . . . Nothing in this section shall be construed to prevent the Charter School from setting aside surplus funds in a reserve account or budgeting and awarding performance bonuses as part of their annual operating expenses.” *Id.* at § 15(h).
- d) “This Charter is subject to applicable federal and state laws, rules and regulations and shall be deemed amended to reflect applicable changes to those laws upon the effective date of any such change.” *Id.* at § 34.
- e) “If any provision of the Charter is determined to contradict or conflict with any other provision of the Charter, the contradiction or conflict shall be resolved in favor of the broad flexibility guaranteed pursuant to O.C.G.A. § 20-2-2065 *et seq.*” *Id.* at § 37.

¹ The previously identified contracts will collectively be referred to as the “Renewed Charter Contracts.”

- f) “This Charter shall be governed by, subject to, and construed under the laws of the State of Georgia. This Charter shall be interpreted in accordance with O.C.G.A. §§ 20-2-2060 *et seq.* and §§ 20-2-2080 *et seq.*, as amended within the term of this Charter.” *Id.* at § 38.
- g) “This Charter sets forth the entire agreement between the Petitioner, the Local Board and the State Board with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings between the Petitioner, the Local Board and the State Board are superseded by this Charter. The Charter shall not preclude the Charter School from entering into or maintaining any agreement with the Local Board provided no such agreement supersedes, overrides or conflicts with any provision of this Charter.” *Id.* at § 39.

44.

Moreover, Georgia’s Charter Schools Act is incorporated into the Renewed Museum Charter Contract, and as a result, requires DCSD to treat Museum no less favorably than other local schools located within the school system.

DCSD’s Improper Reduction in State Funding for the Charter Schools for FY2021

45.

In December 2019, DCSD’s charter office provided the Charter Schools with proposals for their FY21 budgets that were substantially lower than in previous years.

46.

Several schools received substantial proposed reductions in violation of the per pupil base rates established in their charter contracts as set forth above.

47.

DCSD presented no evidence at that time that it anticipated a decrease in local or state revenue.

48.

In July, DCSD approved its FY2021 Budget proposes less than a 5% cut in total state and local revenue.

49.

DCSD also published its FY2021 initial funding worksheets for the Charter Schools. Several of these funding worksheets proposed Per FTE Student funding averages below the amount established in the applicable charter contract.

50.

If enacted this proposed reduction would violate Georgia Charter Schools Act's requirement that start-up charters schools be treated "no less favorably than other local schools . . . with respect to the provision of funds for instruction, school administration, transportation, food services, and, where feasible, building programs."

51.

DCSD has already revealed through its presentations to the Charter Schools that it will continue to provide additional funds to its traditional schools for instructional needs, but will not provide this same support to its charter schools.

DCSD's Refusal to Provide IDEA Funds to the Charter Schools

52.

DCSD recently issued its "SY 20-21 Department Services Guide" for locally-authorized charter schools ("DCSD Guidance").

53.

The DCSD Guidance requires that, prior to the allocation of any federal funds received by DCSD through the Individuals with Disabilities Education Act (IDEA), the Charter Schools must justify the need, including allowing DCSD to confirm (1) that the school is appropriately staffed based on its operating budget, (2) that the school reserved and exhausted a special education contingency fund, and (3) that the school's fund balance is insufficient to meet the need.

54.

The DCSD Guidance thus states that responsibility for complying with the IDEA ultimately falls to the Charter School to provide the same services to students with disabilities as the DCSD without the receipt of any federal funds absent a DCSD audit of the Charter Schools' budget.

55.

However, DCSD's has an obligation to (1) serve children at the charter school in the same manner as other schools, and (2) providing IDEA funding sufficient to ensure that federal requirements are met. *See* 34 C.F.R. § 300.209(b).

56.

DCSD's policy regarding IDEA contravened its duties under the Charter Contract.

DCSD's Exclusion of the Charter Schools from the E-SPLOST Program

57.

The current E-SPLOST program, signed by the DBOE on February 17, 2016 and approved by local voters in May 2016, contemplates, among other things, the following technology

improvements in the District:

(iv) Making technology improvements, by acquiring, replacing, purchasing, installing, upgrading or supplementing technology including, but not limited to: technology that supports and/or enhances instruction, digital communication technology, enhanced school security solutions, wireless technology, enterprise content management solutions, replacement and/or enhancement of technology/systems in support of an Enterprise Resource Planning (ERP) upgrade, data storage systems, telecommunication systems, digital records retention, technology hardware, software, and related infrastructure at some or all of OSCO Schools and Facilities, as needed;

58.

Despite this clear commitment that local sales tax dollars would be used to support technology upgrades system-wide, none of the Charter Schools, with the sole exception of Museum, has received any funds in the almost four years since the referendum was approved..

59.

Despite the DBOE's June 2017 approval of more than \$27M towards technology upgrades, including 1:1 laptops system-wide, the vast majority of the Charter Schools were completely excluded from this program.

DCSD Failed to Provide Requested Documentation Regarding Administrative Fees

60.

DCSD has failed to provide sufficient documentation to justify its continued request for reimbursement of administrative services from its local charter schools.

61.

Applicable regulations require that each local board of education submit to the State Board and post on its website "[t]he authorizing functions provided by the authorizer to the public charter schools under its purview, **including the authorizer's itemized operating costs and expenses associated with providing its authorizer functions.**" Ga. Comp. R. & Regs. 160-4-9-

.06(1)(a)3(i)(VI) (emphasis added).

62.

Prior to the FY21 Budget, the Charter Schools have never received any documentation to justify that such services were "actually provided" in accordance with the statutory requirement, nor has this information been posted on DCSD's website.

COUNT I

BREACH OF CONTRACT

63.

Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

64.

The collective Renewed Charter Contracts are three-party contracts between each Plaintiff and DBOE and GDOE.

65.

The Renewed Charter Contracts are valid and enforceable contracts.

66.

Pursuant to O.C.G.A. § 20-2-2062(1), "[b]y entering into a charter, a charter petitioner and local board shall be deemed to have agreed to be bound to all provisions of [the Charter Schools Act] as if such terms were set forth in the charter."

67.

Defendants must treat Charter Schools no less favorably than other local schools in making funding decisions and budgets for the Charter Schools.

68.

Defendants breached their duties under the Renewed Charter Contracts through their

conduct as set forth above, including, but not limited to:

- a) Reducing state and local funding for FY21 below the base rate set forth in the various Renewed Charter Contacts;
- b) Cutting federal funding, including but not limited services for special education and English to Speaker of Other Languages;
- c) Failing to include the Charter Schools in the current E-SPLOST program;
- d) Failing to provide the Charter Schools with the required documentation to justify continued deduction of an administrative services fee; and
- e) Treating the Charter Schools less favorably than its local district school counterparts.

69.

Every contract implies a covenant of good faith and fair dealing involving the contract's performance and legal effect.

70.

Defendants are obligated by contract and law to act in good faith and to deal fairly with the Charter Schools.

71.

The purpose of the covenant is to guarantee that the parties remain faithful to the intended and agreed expectations of the parties in their performance of the contract.

72.

Defendants violated the covenant of good faith and fair dealing by breaching the Charter Agreement and Georgia law as set forth above.

73.

As a result of Defendants' breaches, the Charter Schools have suffered damages in an

amount to be proven at trial.

74.

Defendants' breaches were made in bad faith, and so Defendants are liable for the Charter Schools' expenses of litigation including attorneys' fees pursuant to O.C.G.A. § 13-6-11.

PRAYER FOR RELIEF

WHEREFORE, DeKalb Academy of Technology and the Environment, Inc., DeKalb Preparatory Academy Charter School, Inc., Leadership Preparatory Academy, Inc., Path Academy, Inc., Tapestry School, Inc., The GLOBE Academy, Inc., and Avondale Education Association, the governing entities and charter holders for DeKalb Academy of Technology and the Environment, DeKalb Preparatory Academy Charter School, Leadership Preparatory Academy, DeKalb Path Academy, Tapestry Public Charter School, The GLOBE Academy, and The Museum School of Avondale Estates, respectively, respectfully request the following relief:

- (1) That process issue against each Defendant according to law;
- (2) That this Court enter a judgment in favor of the Charter Schools on their Breach of Contract claims;
- (3) That this Court grant the Charter Schools their reasonable expenses and attorneys' fees pursuant to O.C.G.A. § 13-6-11;
- (4) That this Court provide a trial by jury for all issues so triable; and
- (5) Such other and further relief as the Court deems just and proper.

This the 17th day of August, 2020.

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