

July 24, 2013

SUMMARY: North Star appeal to the Idaho State Board of Education filed 7/23/2013

1. For many years, North Star's students and faculty have enjoyed academic and scholastic success, but at the same time the school has dealt with potentially crushing payments to bond holders relating to debt from the original school construction years ago. 2013 was different as it held hope for a bright financial future. Late in Spring 2013, North Star reached a written forbearance agreement with its bond holders that promised financial stability for the 2013-14 school year and obligated the parties to good faith negotiations on a long-term restructuring of the debt.
2. Despite the financial stability the forbearance agreement brought through fiscal year 2013-14, The Meridian School District proceeded to send a letter dated June 26, 2013, containing the caption "Notice of Revocation of Charter" and containing the specific recitation that "the District voted to revoke the North Star charter [during the June 25, 2013 board meeting]." North Star Charter School has the right to appeal from that action pursuant Idaho Code Sections 33-5209 (repealed July 1, 2013) and 33-5209C(8)(effective July 1, 2013) and did so today, July 23, 2013.
3. The action of the Meridian School District on June 25, 2013 regarding North Star Charter School failed to comply with Idaho State statutes and regulations in effect on that date, including Idaho Code Section 33-5209 (repealed July 1, 2013), in that:
 - a. Meridian School District failed to give notice of intent to revoke prior to taking such action as required by Idaho Code Section 33-5209.
 - b. Meridian School District failed to provide a hearing prior to taking such action as required pursuant to Idaho Code Section 33-5209.
4. The action of the Meridian School District on June 25, 2013 regarding North Star Charter School violated the Constitutional Due Process right of North Star Charter School to an impartial decision maker.
5. The action of the Meridian School District on June 25, 2013 regarding North Star Charter School is *void ab initio*, meaning that it had no force and effect from the time of the action, because Meridian School District did not have the authority to take such action.
6. The Meridian School District misled North Star Charter School as to its intention to consider revocation at the June 25, 2013 board meeting by publicly announcing the pertinent agenda item relating to North Star only as "North Star Charter Update" thereby concealing the District's intention to vote for revocation of the North Star Charter School charter at that meeting.
7. The action of the Meridian School District on June 25, 2013 regarding North Star Charter School is no longer legally authorized by virtue of changes in Idaho State Law effective July 1, 2013. The notice of defect and subsequent revocation is no longer authorized for authorizing districts. Any action regarding North Star must henceforth happen by virtue of the Performance Certificate process and not by the notice of defect/revocation process.

8. Any process which might be taken by the Meridian School District with regard to a decision regarding the North Star Charter School charter would constitute an inherent and unavoidable violation of Due Process rights held by North Star Charter School because:
 - a. The Meridian School District has prejudged the outcome of such process and cannot impartially render any decision with regard to the North Star Charter School charter.
 - i. Meridian School District has already voted to revoke the North Star Charter in advance of such process. Such vote is expressed unequivocally by:
 1. The motion made by Trustee Reed Olson as recorded in the minutes taken by Secretary Trish Duncan.
 2. The witness to the content of such motion by Jim Miller.
 3. The witness to the content of such motion by Idaho Statesman Reporter Bill Roberts as record in the Idaho Statesman article dated June 25, 2013.
 4. The Letter sent by Superintendent Linda Clark on June 26, 2013 which includes the following:
 - a. A “r.e.” line entitled “Notice of Revocation of Charter”.
 - b. Letter content advising North Star Charter School that the Board of Trustees had voted to revoke the North Star Charter.
 - ii. Representatives of the Meridian School District, including Eric Exline, have spoken publicly to announce the results of the substance of issues pertaining to the North Star Charter School charter.
 - b. The Meridian School District suffers from structural and unavoidable conflict of interest with regard to such a decision because:
 - i. In some circumstances, Meridian School District would experience significant financial detriment by virtue of a potential action. Specifically, in certain circumstances Meridian might have to absorb North Star students without full benefit of State student allocation payments.
 - ii. In some circumstances, Meridian School District would experience significant financial gain by virtue of a potential action, including the revocation of the North Star charter. Specifically, in absorbing North Students Meridian School District would obtain extraordinary income, beyond normal student allocation payments, by virtue of the Emergency Levy process.
 - iii. The Meridian Schools District’s improper consideration of its own financial needs when making decisions regarding North Star Charter School is and has been exacerbated by the impending “fiscal cliff” faced by Meridian School District.
 1. At the public meeting held by the Meridian School District at which the revocation of the North Star Charter School charter was voted upon, such vote was immediately preceded by a lengthy and compelling presentation by Alex Simpson concerning the existence of a “fiscal cliff” facing Meridian School District. The presentation concluded by arguing that Meridian School District would go off the “fiscal cliff” (including a cartoon of Wiley Coyote looking over a cliff) if certain solutions were not put in place. One of the few proposed solutions was “growth.” The next item on the agenda was the North Star Charter School issue. It is obvious that absorption of North Star

- students after charter revocation would accomplish “growth” to prevent going off the “fiscal cliff.”
2. The vote of the Meridian School District Board of Trustees was prejudiced by the positioning of a compelling demonstration of need for growth immediately preceding the vote.
- c. The Meridian School District has evidenced latent or patent hostility towards North Star Charter School. Specifically,
 - i. The Meridian School District Board of Trustees Chairperson refused to meet informally with North Star Charter School Chairperson Jim Miller to attempt to discuss and understand issues.
 - ii. The Meridian School District refused to allow North Star Charter School more than the minimum amount of time allowed by law to respond to the Notice of Defect, and denied a reasonable request for an extension with comment, rational or discussion.
 - iii. Meridian School District representatives have made public statements concerning North Star Charter School that by virtue of either negligence or intent are patently false and which Meridian School District could reasonably know would be damaging to North Star Charter School.
 - d. Any effort to retroactively recast or re-characterize the action taken on June 25, 2013 as anything but a revocation action would constitute an abusive and fraudulent attempt to pervert and undermine legal process.
 - i. The motion made by Trustee Olson (upon which other trustees cast their votes) (and as witnessed by North Star Chairperson Jim Miller and Idaho Statesman Bill Roberts), the notes recorded by Secretary Trish Duncan, the caption on the June 26, 2013 letter, and the body of the June 26, 2013 letter all refer unequivocally and without question to revocation, not intent to revoke.
 - ii. Later recognition by Meridian School District that a mistake was made in process does not justify a retroactive decision to deem the action to be something that it was not.
 - iii. Any effort to obtain testimonial input as to the notion of “intent” is proper only when there is ambiguity, and there is no ambiguity here.
9. Any action to purportedly afford a public hearing to North Star Charter School at this point in time would constitute a farce and a mockery due process because of the foregoing failures, prejudgment and conflicts.
 10. Any requirement that North Star Charter School proceed to a public hearing process before the Meridian School District would constitute a waste of time and resources because of the foregoing failures, prejudgment and conflicts.
 11. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District either negligently or intentionally considered financial stability of North Star beyond the Fiscal Year 2013-14; a consideration of conditions beyond that Fiscal Year that is not permitted by statute and regulation.

12. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District either negligently or intentionally misconstrued or misunderstood elements of the North Star Charter School Corrective Action Plan, including but not limited to the Forbearance Agreement discussed therein.
13. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District has clearly failed to undertake reasonable inquiry concerning the meaning and effect of the terms of the Corrective Action Plan, including but not limited to the Forbearance Agreement discussed therein.
14. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District either negligently or intentionally disregarded the testimony of North Star Chairman Jim Miller without evidentiary basis or proof.
15. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District engaged in impermissible speculation as what might happen during the course of the Forbearance Agreement, and did so without any evidence whatsoever to support either the probability or reasonable possibility of such happenings.
16. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District engaged in impermissible speculation as what might happen during the course of the Forbearance Agreement and in doing so ignored financial information provided to the Meridian School District as a part of the Forbearance Agreement which established that happenings speculated to by the Meridian School District were unlikely and neither probable nor reasonably possible.
17. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District acted in a manner which was arbitrary and capricious.
18. In taking action with regard to the North Star Charter School charter on June 25, 2013, the Meridian School District acted in a manner that has raised undo alarm within the North Star Charter School parents, tarnishes the reputation of North Star Charter School and could result in students unnecessarily choosing an alternative school for 2013-14.
19. North Star Charter School is reasonably assured financial stability through and to the end of the Fiscal Year 2013 (and into the future) by virtue of the Forbearance Agreement submitted to the Meridian School District. Specifically:
 - a. North Star Charter School is prepared to admit students for the 2013-14 Academic year.
 - b. North Star Charter School has issued faculty contracts for the 2013-2014 Academic year.
 - c. North Star Charter School has engaged outside consultants, paid for by funds held in trust by the Bond Trustee (not operational funds) to assist in assuring that the Forbearance Agreement, the 2013-2014 Budget, and other mission critical elements will be successful.
 - d. North Star Charter School has undertaken management restructuring at the recommendation of outside consultants to assure the success and budget compliance for the

- 2012-2014 Academic year; the restructuring assures financial responsibility and compliance with financial constraints and forecasting while not impeding academic and extracurricular success.
- e. North Star Charter School has adopted a budget for the 2013-2014 academic year. That budget has been reviewed and endorsed by outside experts and has been determined by both the Board of Trustees of North Star Charter School and the outside experts to be a viable and successful budget representing assured financial stability through and to the end of Fiscal Year 2013.
 - f. Enrollment and registration information to date supports the assumptions in the 2013-2014 academic year budget. At this point in time new enrollments exceed withdrawals when compared to last year.
 - g. North Star Charter School has already undertaken to commence negotiations with Bondholders with regard to long term debt restructuring, and has at the suggestion of the Bondholders appointed an external Chief Restructuring Officer.
20. North Star Charter School has continued to demonstrate superior academic and extracurricular accomplishment and success notwithstanding financial limitations. Evidence of such success is demonstrated by but not limited to the following:
- a. North Star Charter School surpassed average ISAT test scores compared to both Idaho State scores generally and the scores attained at the Meridian School District. Similar results were obtained by North Star Charter School students with regard to IRI testing, as set forth at www.sde.idaho.gov/ipd/iri/IriAnalysis.asp.
 - b. North Star Charter School has been rated as one of the top schools, and among the very best of charter schools, in the state of Idaho.
 - c. North Star Charter School has received special recognition by the State Department of Education for its outstanding accomplishments with respect to ISAT testing, pursuant to a letter from Superintendent Tom Luna to the North Star Charter School Head of School.
 - d. National scholastic rating systems have recognized North Star Charter School as one of the best charter schools and schools generally in the United States. The Washington Post so recognized North Star Charter School.
 - e. North Star Charter School student teams prevailed at the Economic Summit hosted by the Idaho Council on Economic Education in spring, 2013.
 - f. North Star Charter School International Baccalaureate students successfully passed IB tests.
 - g. North Star Charter School graduating seniors were accepted at and received scholarships from notable universities and demonstrate high levels of advancement to college. Within the first three graduation classes in the School's history, North Star Charter School graduates received three appointments to United States Military academies.
 - h. In 2013, 90% of senior class members took International Baccalaureate examinations and 90% of those taking tests passed at least one topical examination.
 - i. North Star Charter School boys' basketball team advanced to the state tournament in its division for the last two consecutive years.
 - j. North Star Charter School track athletes qualified for State competition in 2013
 - k. North Star Charter School employs an outstanding and exceedingly loyal faculty including many faculty members with Masters or Doctoral degrees.
 - l. North Star Charter School students are respectful and strive towards excellence.

By the Appeal, North Star Charter School requests:

1. That any further proceedings before the Meridian School District be abated and ceased.
2. That the Idaho State Board of Education conduct a public hearing with regard to the propriety, legality, and constitutionality of the Meridian School District actions pertaining to North Star Charter School.
3. That the action of the Meridian School District on June 25, 2013 be deemed *void ab initio* and reversed and overturned.
4. That North Star Charter School's charter be determined and declared to be fully effective, intact and not revoked.
5. That the Idaho Charter Commission be deemed henceforth to be the mandatory legal authorizing agency for North Star Charter School pursuant to law which is required under prior law and existing law. Idaho Code § 33-5209(3)(repealed July 1, 2013) and the current corollary of that statute, Idaho Code § 33-5209(C)(3)(both provide that when the State Board of Education reverses a decision of revocation, the public charter school subject to such action **shall** be placed under the chartering authority of the public charter school commission).