

**BOARD OF EDUCATION
THE SCHOOL DISTRICT OF PHILADELPHIA**

In the Matter of:

Charter Nonrenewal Proceeding Regarding
Olney Charter High School

SUPPLEMENT TO HEARING OFFICER’S REPORT

The Hearing Officer submits this supplement to the Hearing Officer’s Report dated September 19, 2019 to address the subsequent developments described below.

On October 10, 2019, Counsel for Olney Charter High School (“Olney”) sent a letter¹ to The School District of Philadelphia (“School District”) enclosing two new motions in this proceeding. One of the motions requested that the record be reopened (“Motion to Reopen”),² to add certain documents regarding a refinancing that occurred after the hearing was concluded. The other motion requested a stay (“Motion to Stay”), pending disposition of separate litigation (“Litigation”) commenced by Aspira, Inc. (“Aspira”) against the School District and the Board of Education (“Board”).³ In addition, on October 14, 2019, Counsel for Olney sent a second letter⁴ to the School District enclosing a third new motion, which requested supplementation of the Motion to Reopen (“Motion to Supplement”).⁵

¹ Ex. HO[O] 126.

² Ex. HO[O] 127.

³ Ex. HO[O] 128.

⁴ Ex. HO[O] 129.

⁵ Ex. HO[O] 130.

In a conference call on October, 14, 2019, I discussed all three motions with Counsel for the parties. In and after that call, the parties submitted a stipulation regarding the motions, in which they agreed to add certain new exhibits to the record.⁶

These new additions to the record constitute uncontradicted evidence that the indebtedness previously guaranteed by Olney for the benefit of other Aspira controlled schools and entities was repaid after the hearing was concluded and that all funds that Olney transferred to other Aspira controlled schools and entities have been repaid. However, this does not change my recommendation against renewal of Olney's charter, for two reasons. First, it does not affect the many other independent grounds for nonrenewal, including failure to meet student performance requirements, charter violations, violations of applicable laws, failure to meet audit requirements, and other failures to meet fiscal management standards. Second, although it is a relief that Olney now appears to have been relieved of more than \$20 million in financial exposure for the benefit of other schools and entities, and appears to have been repaid for all the funds it transferred to other schools and entities, allowing that exposure and transferring those funds in the first place were still egregious violations of fiscal management standards.⁷

Accordingly, I continue to recommend that Olney's charter *not* be renewed.

No agreement was reached regarding the Motion to Stay. I recommend that it be denied, because it would not be fair to the students to delay the resolution of this matter until the separate Litigation is resolved.

⁶ Ex. HO[O] 131.

⁷ If you rob a bank, you have committed a crime whether or not the money is eventually recovered. In the same way, Olney committed a fiscal management violation here whether or not the resulting financial exposure was eventually eliminated.



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Date: October 16, 2019

**BOARD OF EDUCATION
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In the Matter of:

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**UPDATED
PROPOSED ADJUDICATION OF THE BOARD OF EDUCATION**

The Hearing Officer proposes the following updated adjudication for adoption as a resolution of the Board of Education.

RESOLUTION

Re: Olney Charter High School; Nonrenewal of Charter

WHEREAS, pursuant to the Charter School Law (“CSL”), 24 P.S. § 17-1701-A et seq., the School Reform Commission (“SRC”) of The School District of Philadelphia (“School District”) granted a charter (“Charter”) to the Board of Trustees of OLNEY CHARTER HIGH SCHOOL (“Olney”) to operate a charter school for a five-year term commencing in 2011; and

WHEREAS, Olney seeks renewal of its Charter; and

WHEREAS, members of the Charter Schools Office (“CSO”) of the School District reviewed the academic performance, organizational compliance and viability, and fiscal health and sustainability of Olney during the term of the Charter and concluded that there were grounds for the commencement of nonrenewal proceedings against the Olney under Section 1729-A of the CSL; and

WHEREAS, in compliance with Section 1729-A of the CSL, the SRC, by Resolution No. SRC-8, approved on December 14, 2017, resolved that there were substantial grounds for nonrenewal of Olney’s Charter, set forth the reasons supporting such nonrenewal, scheduled a hearing in this matter and authorized the appointment of a hearing officer to conduct the hearing; and

WHEREAS, the Board of Education (“Board”) replaced the SRC and became its successor with respect to this proceeding on July 1, 2018; and

WHEREAS, the Board appointed a Hearing Officer on December 5, 2018 who held a public hearing on March 12, 13, 15, 18, 19, 20, 25, 26, 27, 29, and April 2, 8, 9, 10, 12 and 15, 2019, during which testimony and exhibits were received regarding whether Olney’s charter should or should not be renewed; and

WHEREAS, a 30-day public comment period was provided following the conclusion of the hearing; and

WHEREAS, pursuant to the CSL, Olney has been permitted to remain in operation pending the outcome of these proceedings; and

WHEREAS, on September 19, 2019, the Hearing Officer certified the record of the hearing and submitted a report to the Board recommending nonrenewal of Olney's Charter, including findings of fact, conclusions of law and a proposed adjudication; and

WHEREAS, the Board has reviewed all of the testimony and exhibits submitted during the hearing, the Hearing Officer's Report, including its Findings of Fact and Conclusions of Law, the submissions by all interested parties, and the public comments received; and

WHEREAS, on October 16, 2019, the Hearing Officer submitted a supplemental report and certification to the Board to address new motions and exhibits presented to the School District on October 10 and 14, 2019; and

WHEREAS, the Board has reviewed the Hearing Officer's supplemental report and certification, and the new motions and exhibits; and

WHEREAS, this matter is now ripe for decision; now be it

RESOLVED, that Olney's request for renewal of its Charter is DENIED.

FURTHER RESOLVED, that the Board adopts the Hearing Officer's Report, including its Findings of Fact and Conclusions of Law, as the reasons for this decision.

FURTHER RESOLVED, that in the event Olney timely appeals this decision to the State Charter School Appeal Board ("CAB"), pursuant to the requirement contained in Section 1729-A(f) of the CSL, the Charter shall remain in effect and Olney shall be permitted to remain open pending the conclusion of its appeal before CAB. In the event that Olney does not appeal this decision to the CAB, Olney shall cease all operations pursuant to a dissolution plan and timetable established by the School District, under the direction of the Office of General Counsel. Said plan shall be presented to the Board within sixty (60) days of the date of this Order.



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Date: October 16, 2019

**BOARD OF EDUCATION
THE SCHOOL DISTRICT OF PHILADELPHIA**

In the Matters of:

Charter Nonrenewal Proceeding Regarding
Olney Charter High School

Charter Nonrenewal Proceeding Regarding
John B. Stetson Charter School

SUPPLEMENT TO CERTIFICATION OF THE RECORD

I hereby certify that, by agreement of Counsel for the Parties, the following additional exhibits have been added to the true and complete record of the hearings in these nonrenewal proceedings:

L. Supplemental Olney Exhibits in the Olney Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Olney 301	Affidavit of Xin Yi, Controller of ASPIRA Inc. of PA, with Attachments	See HO[O] 131
Olney 302	ASPIRA Inc. of PA Complaint	See HO[O] 131
Olney 303	School District's Motion to Dismiss ASPIRA Inc. of PAs Complaint	See HO[O] 131

M. Supplemental Stetson Exhibits in the Stetson Matter

<u>Exhibit</u>	<u>Description</u>	<u>Status</u>
Stetson 278	Affidavit of Xin Yi, Controller of ASPIRA Inc. of PA, with Attachments	See HO[S] 137
Stetson 279	ASPIRA Inc. of PA Complaint	See HO[S] 137
Stetson 280	School District's Motion to Dismiss ASPIRA Inc. of PAs Complaint	See HO[S] 137

N. Supplemental Hearing Officer Exhibits in the Olney Matter

<u>Exhibit</u>	<u>Description</u>
HO[O] 126	2019-10-10 Letter to Rauch With Olney Motions
HO[O] 127	2019-10-10 Olney Motion to Reopen (With Exhibits)

HO[O] 128 2019-10-10 Olney Motion to Stay (With Exhibits)
HO[O] 129 2019-10-14 Letter to Rauch With Olney Supplemental Motion
HO[O] 130 2019-10-14 Olney Supplemental Motion (With Exhibits)
HO[O] 131 2019-10-16 Stipulation Regarding Olney Motions
HO[O] 132 2019-10-16 Supplemental Olney Exhibit and Witness List

O. Supplemental Hearing Officer Exhibits in the Stetson Matter

<u>Exhibit</u>	<u>Description</u>
HO[S] 132	2019-10-10 Letter to Rauch With Stetson Motions
HO[S] 133	2019-10-10 Stetson Motion to Reopen (With Exhibits)
HO[S] 134	2019-10-10 Stetson Motion to Stay (With Exhibits)
HO[S] 135	2019-10-14 Letter to Rauch With Stetson Supplemental Motion
HO[S] 136	2019-10-14 Stetson Supplemental Motion (With Exhibits)
HO[S] 137	2019-10-16 Stipulation Regarding Stetson Motions
HO[S] 138	2019-10-16 Supplemental Stetson Exhibit and Witness List



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