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510 Main Street, San Antonio, Texas 78105

May 27, 2014

Dear Charter School Leader,

As you know the TEA has implemented Senate Bill 2 (which went into effect September 1, 2013) by noticing the closure of six charter schools, regarded by our community as esteemed charter school operators serving diverse student populations. Under SB2, the TEA believes it must revoke a charter that failed to pass either an academic rating or a financial rating retroactively (three years past).

Various charter school support groups and special interest organizations supported Senate Bill 2 and even applauded the announcement of six of our peers being shuttered. We believe everyone can agree that Senate Bill 2 is flawed in many ways; chief amongst them is identifying which schools have truly failed and should, therefore, be closed. While we all can support accountability to the public and the State, we cannot stand by and let good charter schools that are fulfilling their educational missions and providing valuable service to the State and the public face closure. Additionally, this new law attempts to remove due process and property rights that have been the birthright of Texas charter schools since inception in 1995 and it is retroactively punitive imposing the death penalty upon charter schools, including those who's past concerns have been long ago corrected, while not acknowledging the ever-changing and ever increasing complexities of the Texas regulatory environment we face as charter school operators.

For these reasons, Schulman, Lopez & Hoffer, LLP (SLH), filed suit on behalf of American YouthWorks, one of the six charters facing closure, in Travis County District Court, challenging Senate Bill 2 and the TEA's actions as unconstitutional and a violation of American YouthWorks' constitutional and corporate due process rights.

SLH was successful in seeking a Temporary Injunction from the Trial Court of the TEA's closure order, staying the revocation and setting trial for November 2014. However, the State is attempting to circumvent the Trial Court's Temporary Injunction. In doing so, the State has made significant legal arguments that shake the very foundation of our charter school system.

Specifically, the Texas Education Agency and the Commissioner of Education have argued that charter schools are **governmental units for all purposes**, and as such, **possess no constitutional rights, such as property rights and rights to due process**, rights that are ordinarily enjoyed by corporations, rights that as recently as August of 2012, were even recognized in sworn testimony by the former Commissioner of Education, Robert Scott.

Thus, the TEA is now arguing that charter schools are bound by all laws **even those laws that may be found to be unconstitutional**.



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The State now claims:

As a governmental entity, a charter school has no rights under the Texas Bill of Rights and it has no vested right in its own existence.

...

As governmental subdivisions, charter schools are *not* “citizens” or “persons” within the meaning of the Texas Bill of Rights and [cannot] “use the sword of the due-process-of-law and other provisions of Article I to invalidate the laws that govern them.”

And this is not merely argument. The State is asking the trial court, and will, if required, ask the Texas appellate courts, to rule definitively that the above statements are the law. Should they be successful, the State will have effectively stripped Texas charter schools of their unique status as nonprofit corporate persons, eliminating their corporate property and due process rights. This, we strongly believe, will erode and undermine the very foundation of the charter school movement in Texas, and the independence and freedom that was intended for Texas charter schools when the movement began.

The State’s clearly stated position is significant, not just to those schools facing closure this year or the coming years, but to all Texas charter schools.

The Texas League of Community Charter Schools (the League) has been organized to stand against the State’s attempt to deny these constitutional rights to Texas charter schools who join the League. The League will support the current litigation efforts of schools, such as American YouthWorks and seek changes to the law through judicial and/or legislative action.

As some you may know from experience, litigation of this type is unpredictable and expensive. The current Plaintiff schools, like the rest of us, did not anticipate being slated for closure this year. As such, their financial resources are very limited and even diminished. If they run out of financial ability to support the litigation efforts, the State wins, effectively cutting off and eliminating our schools’ corporate and constitutional rights and clearing the path for even quicker charter school closures under SB2 in the next years. As such, the League is seeking your membership and assistance to raise in excess of **\$500,000** that will support current litigation efforts through an appeal to the Supreme Court of Texas as will likely be required.

Moreover, the next session of the Texas Legislature convenes in January 2015. It is contemplated that the League will also serve as the voice of its member schools seeking to support legislation favorable and supportive of community charter schools and eliminating the harmful provisions of Senate Bill 2.



Texas League of Community Charter Schools

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We the undersigned have organized the Texas League of Community Charter Schools as a nonprofit corporation to serve as a voice for community charter schools like ours and yours in order to address these immediate concerns. Understanding that additional support may be necessary to support the litigation and legislative agenda of the community charters, we call for your community charter school to become a “Founding School” of the League through a **\$5,000** initial annual membership fee. We believe that an investment in this fight by each of our respective schools is necessary considering the consequence should we fail to act now.

For your convenience, a proposed Board Resolution is attached that would permit your Board to declare its position in this important matter by joining the League. Please send a signed board resolution and/or your check made payable to the **Texas League of Community Charter Schools** at **510 Main Street, San Antonio, Texas 78205**.

If you have any questions or concerns, you can reach each of us at our respective e-mail addresses below or contact the League’s General Counsel, Joe Hoffer with **Schulman, Lopez & Hoffer, LLP**.

Yours truly,

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