

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

South Carolina Public Charter School District,	)	Docket No. 23-ALJ-30-0027-IJ
	)	
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER TO ENFORCE</b>
	)	<b>AGREEMENT AND ORDERS</b>
Charleston Advancement Academy High School,	)	
	)	
	)	
Respondent.	)	
_____	)	

This matter is before the Court on a Motion to Enforce Order and For Sanctions (Motion) filed by the South Carolina Public Charter School District’s (District) on July 10, 2023. This is another effort by the District to seek Charleston Advancement Academy High School’s (CAA) compliance with an agreement reached by the parties on April 24, 2023 and resulting orders of this Court. The matter originally came before the Court pursuant to a Petition for Injunctive Relief and Appointment of a Receiver (Petition) filed by the South Carolina Public Charter School District (District) on January 24, 2023, against Charleston Advancement Academy High School (CAA). Thereafter, on April 20, 2023, the District filed an Amended Petition for Injunctive Relief, Appointment of Receiver, and Writ of Mandamus (Amended Petition). The Petition and Amended Petition sought to address the District’s concerns that certain funds and assets in CAA’s possession would be mishandled while the District went through the process of revoking CAA’s charter. An Agreement and Orders were entered by the Court in response to the Verified Petition filed by the District.

**PROCEDURAL HISTORY**

The District filed a Petition seeking injunctive relief, appointment of a receiver, and writ of mandamus against CAA on January 24, 2023. A hearing was held on April 24, 2023. During the hearing, the parties conferred and reached an agreement on resolution of the Petition. The Court directed the parties to prepare an Order documenting the agreement. Initially, the parties were unable to finalize an agreement as to the terms of the Order, and the District filed a Motion to Enforce the Agreement. Following a hearing on May 5, 2023, this Court entered an Order on May 9, 2023 (Injunction Order) memorializing the terms of the amended agreement between the



parties in which the parties agreed to the District's Petition for Injunction and CAA also agreed to review and respond to any proposed closure protocol sent by the District within 48 hours. Furthermore, the Injunction Order required CAA's counsel to return \$600,000.00 of the \$1,000,000.00 they received from CAA after the District filed this action.<sup>1</sup>

However, CAA had failed to fully comply with the May 9, 2023 Injunction Order because it had not complied with the closure protocol. As a result, on May 25, 2023, the District filed a second motion to enforce the agreement made on the record before this Court and pursuant to the Court's Order. While the motion was pending, CAA's Closure Protocol team and the District's Closure Protocol team met virtually on June 7, 2023. The District staff compiled a list of tasks for CAA to complete during the month of June in the event the school was required to close on June 30, 2023. CAA did not object to performing any of the revocation and closure protocol process tasks requested by the District. Therefore, by Order dated June 12, 2023 (Second Injunction Order), the Court granted the District's Second Motion to Enforce the Agreement subject to the following terms:

1. CAA is ordered to complete the tasks described in Exhibit A.
2. CAA is ordered to provide the District direct access to all student records through CAA student information systems, including but not limited to PowerSchool and Edgenuity; and
3. CAA is ordered to allow the District access to CAA campuses for purposes of monitoring student welfare, conducting equipment inventory, and inspecting on-site student and financial records.

Then, on July 10, 2023, the District filed this third Motion to Enforce Order and for Sanctions (Motion), seeking to enforce this Court's June 12, 2023 Order and extend or reissue the terms of this Court's Order dated May 9, 2023. The Motion was supported by an affidavit by District Deputy Superintendent John R. Payne (Payne) including a list of the information CAA had failed to provide. A hearing was held on July 19, 2023 at the ALC. CAA did not submit any memoranda or affidavit in opposition to the District's Motion but instead filed a Motion to Strike and Dismiss Contested Case under Rule 11 and for Sanctions (Motion to Strike) on July 17, 2023, which the Court will address in a separate order.

Importantly, the Second Injunction Order included Exhibit A; a list of "Priority Tasks" for CAA to complete on or before June 30, 2023, which CAA agreed to comply with. The Priority

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<sup>1</sup> The Court made no findings regarding whether any transfer from CAA to the IOLTA account of its attorneys was appropriate.

Tasks were based on the statutorily required closure protocol required by the South Carolina Charter School Act of 1996, section 59-40-110(K) of the South Carolina Code (2020). The Priority Tasks set forth in Exhibit A and adopted by this Court’s previous Order required CAA to comply with following specific tasks associated with Closure Protocol:

**EXHIBIT A**  
**CAA Closure Protocol Priority Tasks – June 2023**

<b>Deadline</b>	<b>Closure Protocol Task</b>	<b>Status</b>
Through June 30th	Line 17: CAA will maintain instructional models per Charter. <ul style="list-style-type: none"> <li>● Alert the PCSD via email to Dep. Supt. John Payne prior to making changes to instructional models.</li> <li>● Alert the PCSD via email to Dep. Supt. John Payne within 24 hours if changes to staffing impact implementation of the current instructional model.</li> </ul>	
Through June 30th	Line 18: CAA will record student schedules and attendance in Power School <ul style="list-style-type: none"> <li>● Record current student to teacher ratio</li> <li>● Record maximum student to teacher ratio</li> <li>● Alert PCSD via email immediately if any changes to any student schedule is made.</li> </ul>	
Through June 30th	Line 23: CAA will record data in PowerSchool consistent with District and State requirements	
By June 16	Line 23: CAA will provide by email to Dep. Supt. John Payne a list of students that <u>may</u> reach the number of credits required to graduate before June 30.	
Through June 30th	Line 24: CAA will submit all required documentation to EpiCenter for state, federal, and accountability reporting.	
By June 16th	Line 31: CAA will provide PCSD via email to Dep. Supt. John Payne a complete list of students who are scheduled to receive ESY services for the summer of 2023.	
By June 30th	Line 37: CAA will provide PCSD via email a complete list of students who are confirmed Foster Care/Homeless	
By June 30th	Line 47: CAA will provide copies to the SCPCSD of all corporate records related to Loans, bonds, mortgages and other financing, Contracts, Leases, Assets and asset distribution, Grants, Governance minutes, bylaws, policies), Employees (background checks, personnel files), Accounting/Audit, taxes and tax status, Personnel, Employee benefit programs and benefits	

By June 16	Line 57: CAA will protect school assets from theft, misappropriate and fraud; CAA will provide copies of May bank statements and IOLTA account statements; CAA will remove access to school bank accounts on any personal devices of board members/administrators and change mailing address for all bank statements to school address.	
Through June 30	Line 58: CAA will maintain all existing insurance coverage and renew any coverage expiring on or before August 1, 2023.	
Through June 30th	Line 89, 90, 91: CAA will maintain student records in accordance with state law and regulation. CAA will Provide hard copy student records to PCSD by June 30th.CAA will provide PCSD via email to Dep. Supt. John Payne a record of the locked cabinet in which these records are kept.	

### DISCUSSION

The only evidence submitted in the record regarding the District’s present Motion as to CAA’s compliance with the parties’ prior agreement and this Court’s prior Orders is the affidavit by District Deputy Superintendent John R. Payne filed July 10, 2023. CAA did not refute the facts in the Payne affidavit. Rather, it submitted for the first time in this case that the Petition for Injunction was not properly before the Court. Specifically, CAA filed a Motion to Strike contending the Petition for Injunction should be dismissed because the District Board of Trustees did not take a vote in public session to authorize the filing of the Petition. Nevertheless, as addressed in a separate order, CAA previously consented to the Injunction Order, participated in hearings, and filed extensive legal briefing without raising this issue and as such has waived any such objection to this matter proceeding.

Furthermore, CAA argued that compliance with the Orders was no longer necessary because the school is operating at this time. Yet, CAA’s appeal on the merits of the charter revocation remains pending,<sup>2</sup> just as it was when CAA originally agreed and consented to the Injunction Order and just as it was when the Second Injunction Order was issued. Nonetheless,

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<sup>2</sup> On May 12, 2023, CAA filed a Notice of Appeal in 23-ALJ-30-0163-AP contesting the revocation of its charter, along with a Motion for an Expedited Hearing for a Stay. CAA then filed a Motion for a Stay and Petition and Memorandum of Law in Support of Its Motion for a Stay on June 15, 2023. Prior to the hearing on CAA’s motion, CAA filed an Amended Motion for a Temporary and/or Preliminary Injunction and/or a Stay and Memorandum of Law in Support of its Motion. This Court held a hearing on CAA’s motion on June 21, 2023. On June 29, 2023, this Court issued an Order denying CAA’s motion. CAA filed an interlocutory appeal of this Court’s Order the same day with the South Carolina Court of Appeals, along with an Emergency Motion for a Temporary Restraining Order, Preliminary Injunction, and/or Stay. On June 30, 2023, the Court of Appeals issued an Order granting a temporary stay and ordering the parties to provide memoranda addressing the issue of appealability within ten days.

CAA argued that because the Court of Appeals’ Order granted a temporary stay of the revocation, the closure protocol issued under the revocation statute should not be enforced as of June 30, 2023. However, this Court’s Injunctive Orders and the District’s present motion that have been filed in this case were initiated prior to CAA’s administrative appeal to the ALC. The Orders were entered to ensure CAA’s compliance with closure protocol prior to the school’s potential closing. Indeed, compliance with the Orders is necessary to fulfill the purpose of the Charter Act to “ensure a smooth and orderly closure and transition for students and parents,” should that be the outcome of the pending revocation proceedings. *See* S.C. Code Ann. § 59-40-110(K). Additionally, the plain language of the Charter Act makes clear the need for the closure protocol to be in place “prior to” the closure, and the nature of the tasks included in the protocol require that the protocol be started before the closure actually occurs. In fact, it would be short sighted to revoke a school’s charter and close its doors without some initial planning on the part of the district.

Notably, CAA did not contest the implementation of the protocol prior to actual closure in April when CAA agreed to participate in the protocol and when it consented to the Injunction Order. Moreover, the revocation proceedings remain pending—CAA may still be required to close, depending on the outcome of its appeal, and thus the Orders requiring compliance with the closure protocol remain both important and legally necessary to protect students and taxpayers. Thus, the Court does not interpret the Court of Appeals’ June 30 Order as foreclosing the institution of the closure protocol.

Counsel for CAA also represented to the Court that had they been made aware of the deficiencies sooner and in more detail, this proceeding likely could have been avoided. However, the District’s Motion and Payne’s supporting affidavit filed with the Court outlines with specificity the requirements CAA has failed to fulfill. The Motion and affidavit point out at least four Priority Tasks which CAA made no apparent attempt to comply with as required by the Second Injunction Order. Moreover, counsel for the District contacted CAA’s counsel on July 5, 2023, five days prior to filing the motion, to confer regarding CAA’s lack of compliance. CAA’s counsel objected to compliance entirely and did not ask for clarification or any more detail regarding what was needed to comply with the remaining Priority Tasks.<sup>3</sup> CAA also made no attempt to comply between receiving the affidavit on July 10 and the hearing on July 19. Indeed, the record before this Court

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<sup>3</sup> The July 5, 2023 correspondence was filed with the Court as Petitioner’s Notice of Filing and submitted at hearing without objection.

is devoid of any evidence that CAA attempted to seek clarification or comply with the Court's Order between the time CAA's counsel received the email conferring about the potential motion on July 5 and the hearing on July 19, 2023.

Therefore, the Court finds that CAA has violated the Orders of May 9, 2023 and June 12, 2023, and hereby **GRANTS** the District's Motion to Enforce Order and For Sanctions and **ORDERS** as follows:

1. CAA is ordered to provide a complete response to all of the information requested in the District's Motion by August 4, 2023. This includes all responsive information related to CAA operations in June and July 2023, including but not limited to all documentation related to any diplomas, transcripts or other student records of CAA students that may no longer be enrolled. Further, CAA must provide documentation from CAA's banks that no CAA bank account may be accessed through mobile banking by its board chair or anyone else at the school.
2. CAA is ordered to supplement its responses to all Priority Tasks in the Second Injunction Order by providing a complete response to all the information requested by the 1<sup>st</sup> day of every month in an electronic folder specified and maintained by the District until this matter is dismissed by the Court.
3. CAA is ordered to provide the District direct, unrestricted and unlimited access to Edgenuity. For the avoidance of doubt, CAA may not prevent the District from accessing any Edgenuity records, reports or functions that is available to CAA; and
4. CAA is ordered to allow the District access to CAA campuses for purposes of monitoring student welfare, conducting equipment inventory, and inspecting on-site student and financial records. The District is not required to visit the campus pursuant to this Order.
5. If CAA fails to provide any item required by this Order on or before August 4 or the first of any succeeding month, the District must notify CAA and its counsel of record in this case by email on record in the AIS system of the deficiency with specificity and allow CAA three (3) business days from receipt of the email to correct the deficiency. If CAA fails to correct the deficiency within three days, the District or its counsel may submit an Affidavit to the Court identifying CAA's failure to correct the deficiency and CAA and its counsel of record may be deemed in contempt of court, which is punishable by imprisonment, a fine, or both.
6. Counsel for CAA is ordered to provide a copy of this Order to all CAA certified educators and all CAA board members on or before August 4, 2023. Counsel for CAA must provide an affidavit to the Court verifying it has complied with this requirement by August 7, 2023.
7. This Court's Order dated May 9, 2023 is hereby extended and reissued until proceedings involving the merits of CAA's appeal of the revocation have been concluded, including all appeals from any order issued by this Court on the merits of the appeal. If CAA has taken any action after June 30, 2023 that would result in noncompliance with the May 9 Order, it must take any action necessary to correct the noncompliance by August 4, 2023. CAA, its counsel, its board members, and/or

its administration may be sanctioned and/or held in contempt if CAA is not in compliance with the May 9, 2023 Order as of August 4, 2023. Penalties for contempt may include imprisonment, a fine, or both.

**AND IT IS SO ORDERED.**

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Ralph King Anderson, III  
Chief Administrative Law Judge

July 28, 2023  
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



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Stephanie Perez  
Judicial Law Clerk

July 28, 2023  
Columbia, South Carolina