

In The Matter Of:
Department of Education
In re: Minor Modification Application

Public Hearing
June 5, 2017

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STATE OF DELAWARE
DEPARTMENT OF EDUCATION
CHARTER SCHOOL OFFICE

IN RE: MINOR MODIFICATION APPLICATION OF
DELAWARE DESIGN-LAB HIGH SCHOOL

Department of Education
Townsend Building
401 Federal Street
Cabinet Room - 2nd Floor
Dover, Delaware

Monday, June 5, 2017
5:00 p.m.

BEFORE: CATHERINE T. HICKEY, ESQ.
Deputy Attorney General for
the State Board of Education

JOHN CARWELL,
Education Associate,
Charter School Office

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1 THE HEARING OFFICER: Good
2 evening. I declare this public hearing to be
3 open.

4 My name is John Carwell. I'm an
5 education associate from the Charter School
6 Office with the Delaware Department of
7 Education and I have been appointed by the
8 Secretary of Education to conduct this public
9 hearing.

10 The Delaware Design-Lab High
11 School has filed a minor modification
12 application to make revisions to their
13 approved charter. As is permitted by law, the
14 matter was referred to the Secretary and to
15 the Charter School Accountability Committee
16 for investigation and report. The Charter
17 School Accountability Committee has issued an
18 initial report on this matter. This public
19 hearing is being held by the Department of
20 Education to receive public comments.

21 I'd like the record to reflect
22 the notice of the time, date and place of
23 today's public hearing was published in The
24 News Journal, at the Charter School -- and The



1 Delaware State News on May 18th, 2017. In
2 addition, notice was posted at the Charter
3 School Accountability Committee's official
4 place of business on the Delaware Department
5 of Education official website and the state
6 public meeting calendar on the state's
7 official website. Further, the Delaware
8 Design-Lab High School was personally notified
9 of the time, date and place of today's public
10 hearing on May 22nd, 2017.

11 A court reporter is present so
12 that a record of this public hearing can be
13 made. It will be necessary for each speaker
14 to clearly identify his- or herself before
15 beginning to speak so that the court reporter
16 will be able to note who you are.

17 The record of this hearing will
18 be provided to the Secretary of Education
19 together with any written or electronic
20 comments received during the course of the
21 minor modification decision process. To date,
22 we have not received any written comments
23 regarding this minor modification application.

24 So we will proceed in the



1 following manner. First we will hear from any
2 representative for the charter school who wish
3 to comment on the minor modification
4 application. Then we will take comments from
5 anyone else who desires to speak. There are
6 sign-up sheets for anyone who desires to speak
7 at the rear of the room. And if you have not
8 signed up and you desire to speak, please do
9 so now.

10 Okay. And just as a note, if
11 the number of those desiring to speak is large
12 or -- we may consider implementing time limits
13 to limit those comments. And I will intend to
14 be as liberal as time reasonably allows in
15 accepting comments. However, I do reserve the
16 right to limit comment if it is purely
17 repetitive or cumulative.

18 At this point I will accept
19 comments from any representatives of the
20 school.

21 Please introduce yourselves.

22 MS. COLLINS: Mr. Carwell,
23 Rebecca Collins, for the record. I have a
24 brief question of order.



1 THE HEARING OFFICER: Yes.

2 MS. COLLINS: To the extent a
3 representative of the school would like to
4 comment at the end of the proceeding, is that
5 allowed?

6 THE HEARING OFFICER: Yes,
7 ma'am.

8 MS. COLLINS: Thank you.

9 THE HEARING OFFICER: You're
10 welcome.

11 MR. MILLER: Yes, I would like
12 to speak.

13 My name is Paul Miller. I'm the
14 board chair at Delaware Design-Lab. And as we
15 begin, I just wanted to update the committee
16 on the school's progress in responding to the
17 CSAC initial report.

18 In its report, the committee
19 requested three specific items: Number one,
20 an updated and detailed budget sheet; a list
21 of board policies; and, number three, a timing
22 to the RFP process for a new design vendor.

23 I'm pleased to tell you that,
24 with the help of the finance committee and



1 Michelle Lambert, we have substantially
2 finalized the 2017 and '18 year budget as it
3 pertains to our May 1 enrollment numbers,
4 which are a little bit less than where they
5 are currently. And we're pleased to be able
6 to show shortly that we will have a
7 significant surplus. Moreover, we received
8 confirmation last week that we received our
9 line of credit from WSFS Bank in the amount of
10 \$50,000. And, then, lastly, regarding board
11 policies, they've been completed. There is --
12 the RFP documents are in progress. We're
13 looking forward to sharing all this
14 information with you prior to the response
15 deadline, which, I believe, is the 13th.

16 THE HEARING OFFICER: The 12th.

17 MR. MILLER: Twelfth?

18 Okay. My apologies.

19 Thank you.

20 THE HEARING OFFICER: Mm-hmm.

21 MR. MILLER: And, lastly, I do
22 want to take a moment to thank you and the
23 committee for your time and efforts with
24 regard to this minor modification. We found



1 the process to be helpful and allows us to
2 focus. And we appreciate the hard look that
3 you guys have taken to our school to ensure
4 that we're complying with all the best
5 practices.

6 So thank you.

7 THE HEARING OFFICER: Thank you,
8 sir.

9 Is there anyone else from the
10 school who desires to speak?

11 Okay. Thank you.

12 At this point we'll take
13 comments from any other individuals in the
14 audience who would like to speak.

15 MS. HICKEY: Just to facilitate
16 things, would you mind kind of going back into
17 the audience. And anybody who wants to come
18 up, they have the same --

19 Thank you very much.

20 THE HEARING OFFICER: Is there
21 anyone else who desires to speak?

22 DR. RAYALA: Yes. We do.

23 DR. ALVAREZ: Mm-hmm.

24 THE HEARING OFFICER: Please



1 come forward. And introduce yourselves,
2 please.

3 DR. ALVAREZ: What's that?

4 THE HEARING OFFICER: Please
5 introduce yourself before speaking.

6 DR. ALVAREZ: Mm-hmm, yes.

7 My name is Dr. Cristina Alvarez.

8 THE HEARING OFFICER: Okay.

9 DR. ALVAREZ: Good evening.

10 I'm Dr. Cristina Alvarez, the
11 co-founder, along with Dr. Martin Rayala, of
12 Delaware Design-Lab High School. This public
13 hearing is part of the review process for a
14 minor modification to the charter for the
15 school we created. From December 2012 to the
16 school's successful launch in fall 2015,
17 working for Design-Lab Schools LLC, we wrote
18 the charter application, presented it to the
19 Delaware Department of Education, and planned,
20 funded and implemented the school's start-up.
21 The Delaware Department of Education approved
22 the charter in June of 2013.

23 The minor modification submitted
24 by the school's board of directors and that is



1 currently under consideration misrepresents
2 the relationship between Design-Lab Schools
3 LLC and the school. For due process and for
4 full disclosure purposes, I wrote to the
5 Charter School Office and the school's board
6 requesting the opportunity to address the
7 Charter School Accountability Committee (CSAC)
8 at the CSAC meeting for the minor modification
9 application for Delaware Design-Lab High
10 School on May 22nd, 2017, and was denied the
11 opportunity to speak at that meeting. It was
12 inappropriate not to let Dr. Rayala and me
13 testify before the CSAC because what we had to
14 say was relevant to the minor modification
15 request. We seek full disclosure to correct
16 inaccuracies made by the board in the minor
17 modification application.

18 Part of the minor modification
19 is premised on the recent action by the board
20 to terminate the contractual relationship
21 between Design-Lab Schools LLC and the school.
22 There is no factual or legal basis for the
23 notice of termination for many reasons. The
24 notice did not comply with numerous provisions



1 of the Academic and Business Services
2 Agreement entered into by Design-Lab Schools
3 LLC and Delaware Design-Lab High School, Inc.
4 The agreement has plainly been in effect and
5 constitutes a valid and binding obligation of
6 the school and is enforceable against the
7 school in accordance with its respective
8 terms. Design-Lab Schools LLC has performed
9 its obligations under the agreement.

10 The board and the school have
11 materially breached and interfered with
12 performance of the agreement in numerous
13 respects by making misleading and false
14 allegations, improperly preventing full
15 performance of the agreement, violating its
16 financial terms, purporting to bar employees
17 of the LLC to cease contact with school
18 personnel, students and families, and to ban
19 Dr. Alvarez and Dr. Rayala from even entering
20 the school. The statement that the board
21 intends to issue a request for proposals to,
22 in effect, replace Design Lab Schools LLC is
23 another material breach.

24 Design-Lab Schools LLC has



1 provided the vast majority of the agreed-upon
2 services, as well as many other services that
3 were beyond the scope of those listed in the
4 agreement, doing whatever it took to make sure
5 the school had the resources it needed to be
6 viable and successful.

7 Pursuant to certain terms of the
8 agreement, we requested that the termination
9 be suspended since the board recently filed
10 with the Delaware Department of Education an
11 application to modify the school's charter.

12 In accordance with terms of the agreement, we
13 made several requests to enter into mediation.
14 We are hopeful that the board will begin to
15 act in good faith and respond favorably to our
16 requests.

17 In conclusion, we believe that
18 the minor modification submission made by the
19 board is misleading in a number of respects,
20 including describing our relationship with the
21 school and the fact that the termination is
22 totally without basis. If the Department of
23 Education proceeds, it will be acting upon the
24 minor modification as submitted that is



1 incorrect and misleading. The school should
2 be required to update and make accurate its
3 statements before any approval is granted.

4 THE HEARING OFFICER: Thank you.

5 DR. ALVAREZ: Thank you.

6 THE HEARING OFFICER: Is there
7 anyone else who desires to speak?

8 MS. HICKEY: Dr. Alvarez, did
9 you want to include a written copy of your
10 statement/hard copy of your statement in the
11 record?

12 DR. ALVAREZ: Yes.

13 MS. HICKEY: Okay. So we'll
14 have that marked as Exhibit A to this hearing,
15 and it will be included.

16 DR. ALVAREZ: Thank you.

17 THE HEARING OFFICER: Okay. Is
18 there anyone else who would like to speak at
19 this time?

20 MS. COLLINS: My name is Rebecca
21 Collins. I'm the vice-chairman of the board
22 of directors for Delaware Design-Lab High
23 School. I would like to thank Dr. Alvarez for
24 her comments. I would simply note that it is



1 my understanding that the internal legal
2 battles of the school are not the concerns of
3 this committee. However, we necessarily
4 disagree with some of the comments that were
5 made. But they are an internal struggle. And
6 if this committee requires more information on
7 those legal questions, we would be happy to
8 provide our position as well. But I do not
9 think that it is relevant to the request that
10 has been made today.

11 That's it.

12 THE HEARING OFFICER: Thank you.
13 Is there anyone else who desires
14 to speak?

15 DR. RAYALA: Yes.

16 Thank you.

17 THE HEARING OFFICER: You're
18 welcome.

19 Please introduce yourself.

20 DR. RAYALA: I'm Dr. Martin
21 Rayala. And I'm the co-founder, along with
22 Dr. Cristina Alvarez, of Delaware Design-Lab
23 High School.

24 As has been pointed out, this



1 public hearing is part of the review process
2 for a modification to the charter for the
3 school we created. The purpose of the minor
4 modification is to clarify the changing roles
5 of Dr. Alvarez and myself in the school as it
6 transitions from the planning and start-up to
7 an operational school.

8 We contributed to writing the
9 minor modification, but when it was submitted,
10 changes had been made by one of the new board
11 members that we believe were designed to
12 remove us from the school we created. When we
13 asked to see the changes that were being made,
14 we were told by that board member, in the
15 presence of a representative of the Charter
16 School Office, that we had no right to see the
17 application before it was submitted because we
18 were not members of the board.

19 When the Charter School
20 Accountability Committee held its first
21 hearing regarding the minor modification to
22 clarify the relationship between the founders,
23 Dr. Alvarez and myself, to the school, we were
24 not allowed to speak or asked for our input



1 under the pretense of some departmental
2 protocol. Speaking today as a member of the
3 general public is the only remaining venue
4 available to us to present the original intent
5 to modify the charter.

6 After four years of hard work to
7 create and fund Delaware Design-Lab High
8 School, during the heavy lift of opening the
9 school in its start-up year, we were also
10 writing an application to become an XQ Super
11 School. We were excited to learn that after a
12 year of vigorous national screening our XQ
13 Super School application was selected as one
14 of ten winners from 1500 applicants to receive
15 a \$10 million XQ Super School Grant. We were
16 pleased to have the model upon which the
17 school was built be nationally validated and
18 acknowledged, not to mention now having an
19 additional \$10 million over the next five
20 years would contribute to the future
21 development of the school.

22 You can imagine what a shock it
23 was to us to then receive communications
24 drafted by that new board member terminating



1 our relationship with the school and telling
2 us we were not to enter the building or
3 communicate with other board members, school
4 personnel, students or families.

5 Dr. Alvarez and I seek a fair
6 and humane acknowledgement of the ingenuity,
7 intellectual property and endless hours we
8 spent over several years as founders of
9 Delaware Design-Lab High School and as authors
10 of the winning Design-Lab High XQ Super School
11 application. We have been assured by a
12 majority of the board that there is no intent
13 on their part to remove us from the school we
14 created or the leadership of the XQ Super
15 School Grant we wrote.

16 We expect to be able to continue
17 developing these two innovative projects with
18 the ongoing support and collaboration of the
19 majority of the board, the parents, the
20 administration, staff, teachers, students and
21 community. We ask that the Department of
22 Education stop this effort to steal the school
23 from its founders and the leadership of the XQ
24 Super School project from its authors and that



1 the language that was added surreptitiously to
2 the minor modification designed to throw us
3 out of our own school be removed.

4 The idea that the mission and
5 vision of Delaware Design-Lab High School and
6 the XQ Super School project can be fulfilled
7 without Dr. Alvarez and myself is based on a
8 couple of faulty premises. One is the
9 contention that vendors can be found who would
10 be able to do the same work that the founders
11 do and for a more reasonable cost. Even if
12 that were true, the question is "Why?" Why,
13 when the original creators of the vision and
14 mission for both the school and the XQ Super
15 School Grant are right here? Is there an
16 effort to put their roles out for bid?
17 Supporting the creators of the school and the
18 authors of the grant to carry out the mission
19 and vision of Delaware Design-Lab High School
20 and the Design-Lab XQ Super School project is
21 not only the decent thing to do but the smart
22 thing to do.

23 The other mistake is to look at
24 the plan that's been developed and claim, "We



1 can run the school and implement the XQ Grant
2 without Dr. Alvarez and Dr. Rayala. They
3 created the school and brought in a
4 \$10 million grant to support the work. Thank
5 you very much. We can take it from here."

6 Implementing the plan that has
7 been developed is the responsibility of the
8 board, the school leadership team and the
9 faculty. But this is just the plan for the
10 first year. Dr. Alvarez and myself are doing
11 the research, working with other experts,
12 holding brainstorming sessions and doing the
13 hard work of developing the vision for not
14 only the coming year but future years. The
15 innovation and insights needed to carry out
16 the work have not ended. It's not -- it's
17 more than a matter of turning a crank to make
18 it work.

19 Delaware Design-Lab High School
20 and the XQ Super School are not
21 run-of-the-mill projects that can be carried
22 out by people selecting off-the-shelf
23 solutions developed by the usual suspects in
24 past traditional school reform efforts.



1 Dr. Alvarez and I are highly qualified
2 professionals who are committed to making
3 Delaware Design-Lab High School, through the
4 support of the XQ Super School Institute, one
5 of the most effective and innovative schools
6 in the world and that helps students meet the
7 extraordinary challenges of the uncertain
8 future that is the 21st Century.

9 Please let us do that work.

10 THE HEARING OFFICER: Thank you,
11 sir.

12 Is there anyone else --

13 MS. HICKEY: Dr. Rayala, do you
14 want to have a copy of --

15 DR. RAYALA: Yes.

16 MS. HICKEY: -- that to be
17 marked?

18 Okay.

19 DR. RAYALA: Yes.

20 MS. HICKEY: We'll mark that as
21 Exhibit B and have it made part of the record.

22 DR. RAYALA: Thank you.

23 THE HEARING OFFICER: Thank you.

24 Is there anyone else who desires



1 to speak?

2 MS. COLLINS: I do.

3 Rebecca Collins on behalf of
4 Design-Lab.

5 I simply would like to reiterate
6 my comments from earlier about relevance
7 regarding contract termination, regarding
8 employment of vendors for the school,
9 regarding the school board's opportunity to
10 choose its own vendors and its own contract
11 and its own path going forward.

12 THE HEARING OFFICER: Okay.
13 Thank you.

14 Is there anyone else who desires
15 to speak?

16 Okay. If not, I want to thank
17 you all for participating today. The
18 Secretary will consider your comments in
19 deciding, at the conclusion of this process,
20 whether to approve the modification request.

21 And this hearing is now closed.

22 Thank you.

23 (Exhibits A and B, respectively,
24 were marked for identification.)



(The hearing adjourned at approximately 5:20 p.m. this same evening.)

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E X H I B I T S

| | | |
|-------------------------|--------------------------------------|---------|
| EXHIBITS | | MARKED |
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| Exhibit 2 | Statement by Dr. Martin Rayala | 20 |
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C E R T I F I C A T E

STATE OF DELAWARE:

:

KENT COUNTY :

I, Robert Wayne Wilcox, Jr., a Registered Professional Reporter, within and for the County and State aforesaid, do hereby certify that the foregoing hearing was taken before me, pursuant to notice, at the time and place indicated; that said witness was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said witness was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the foregoing hearing is a true record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand and official seal this
5th day of June A D 2017



Robert Wayne Wilcox, Jr., RPR



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