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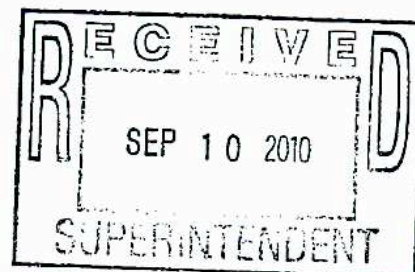
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September 8, 2010

Mark A. Elgart, Ed.D
President and CEO
AdvancED
2520 Northwinds Parkway, Suite 600
Alpharetta, Georgia 30009



Dear Dr. Elgart:

We are responding to your letter of July 28, 2010, notifying the Wake County Public School System ("WCPSS" or "District") of your conclusion "that a Special Review Team needs to conduct a visit to determine whether the actions of the [WCPSS] are negatively impacting the ability of the schools in Wake County to meet the AdvancED Standards and Policies for accreditation." Your letter asks the District to identify a three-day period for the visit of the Special Review Team ("SRT") and includes 12 requests for documents and information to be provided before the SRT's arrival.

Dr. Hargens shared your July 28 letter with the Wake County Board of Education. The Board values the District's relationship with AdvancED and appreciates the significance of accreditation for our high schools; however, it has serious concerns about the basis, purpose, and scope of the proposed SRT visit. Accordingly, before suggesting dates for an SRT visit, the Board has instructed us to seek clarification to ensure that the proposed visit would be limited to matters genuinely within the purview of AdvancED.

Your July 28 letter follows the District's response to the eight allegations set forth in the March 18, 2010, letter to Dr. Hargens from the SACS CASI State Director. Those allegations were drawn from a complaint filed by Rev. William J. Barber, II, a public opponent of the Board's decision to eliminate socioeconomic status as a factor in student assignment and move towards community-based schools. In sum, the eight allegations accused the Board—in the course of changing its student assignment policy—of violating North Carolina's Open Meetings Law and WCPSS policies and procedures, undermining the former WCPSS superintendent, ignoring the advice of the Board's longstanding legal counsel, and hiring supplemental legal counsel.

At the outset, we note that AdvancED renewed the accreditation of five WCPSS high schools in 2010, after Reverend Barber submitted his complaint. The renewals followed the recommendations of Quality Assurance Review Teams ("QARTs") sent by AdvancED to conduct site visits earlier this year. Apparently, neither the QARTs nor AdvancED regarded the complaint as a barrier to accreditation renewal this spring. Likewise, the Board believes that the

complaint should not be used to call the accreditation status of these schools or other WCPSS high schools into question now.

The Board also considers the District's prior response to the allegations in the SACS CASI letter to be both comprehensive and persuasive. Your July 28 letter, though, fails to specify which, if any, of the eight allegations you regard as unresolved. The Board asks that you identify the specific allegations in the SACS CASI letter that an SRT would investigate during a visit to the WCPSS.

As for the information and document requests in your July 28 letter, the Board's overriding concern is that your requests seem to have little, if anything, to do with the accreditation status of individual high schools in Wake County. Instead, they strongly suggest that AdvancED wishes to second guess the merits of the Board's decision to transition to a community-based school assignment plan.

The first five items listed in your letter demonstrate the basis for the Board's uncertainty over the SRT's mission. You ask the District to provide (1) all policies the Board has adopted since December 1, 2009, (2) a copy of the "transition plan to the Community Based Assignment Plan," (3) a description "of the process used to develop the transition plan from the current Diversity Plan to the Community Based Assignment Plan," (4) "the process used to identify the individuals assigned to create the Community Based Assignment Plan," and (5) a copy of "any and all information and studies considered along with a list of any and all sources consulted by the Board and Board members in reaching the decision to adopt the policy enacting a Community Based Assignment Plan."

These requests appear to be aimed squarely at the Board's substantive conclusion that community schools are in the best interests of Wake County students and families. This is surprising, given that AdvancED accredits individual high schools within the WCPSS, not the District as a whole. The accreditation standards for individual schools are found in your "Accreditation Standards for Quality Schools" ("ASQS"), Standard 2 of which covers governance. (Reverend Barber's complaint erroneously cites the governance standards applicable to school systems seeking district-wide accreditation, rather than high schools.) ASQS Standard 2 addresses governance at the school level; it is not a license to probe the Board's system-wide policy judgments in student assignment matters. Our view of Standard 2 is confirmed by the reports that AdvancED QARTs prepared after visiting WCPSS high schools a few months ago. (Encl. 1.) In finding that those schools had satisfied ASQS Standard 2, the QARTs focused on relationships between the leadership and stakeholders at each school, not on Board-level decision making.

Furthermore, responsibility for student assignment plans in North Carolina lies with local school boards as a matter of law. N.C. Gen. Stat. § 115C-366(b) ("Except as otherwise provided by law, the authority of each board of education in the matter of assignment of children to the public schools shall be full and complete . . ."). A school board cannot be required to cede its statutory authority over student assignment as part of an accreditation review. See Marjorie Webster Junior Coll., Inc., v. Middle States Ass'n of Coll. & Secondary Sch., 432 F.2d 650, 655

(D.C.Cir. 1970) (“[Accreditation] standards must be reasonable, applied with an even hand, *and not in conflict with the public policy of the jurisdiction*” (emphasis added)).

Here, the new Board majority revised the WCPSS student assignment policy to favor community schools after an October 2009 election in which that policy was a central issue. The outcome of the election demonstrated widespread public dissatisfaction with the prior assignment policy that considered socioeconomic status in the student assignment process. The post-election policy revision was a legitimate response to the democratically expressed wishes of Wake County voters and to the failure of the prior system to adequately address the needs of poor and minority students.

In light of the legal and policy considerations expressed above, the Board asks for an explanation of how each of the first five requests in your July 28 letter is connected to the accreditation standards for individual Wake County high schools. The Board questions the justification for this inquiry when school districts across North Carolina with SACS-accredited schools, including Charlotte-Mecklenburg Schools, Buncombe County Schools, Durham Public Schools, Cumberland County Schools, and New Hanover County Schools, have community-based student assignment plans. The Board also wishes to know whether the SRT would make recommendations about the legality or propriety of adopting community-based assignment plans in Wake County.

Your sixth request seeks copies of all policies involving “the powers and authority to the Superintendent, School Board members and the administration, including any and all proposed changes to said policies since December 1, 2009.” While the District does not object to providing such documents, this is another request which seems unrelated to the accreditation status of particular high schools. Please explain how this request implicates ASQS Standard 2, which as noted above, concerns governance at the school level.

In response to your seventh request, which asks for a “description of the seat voucher system” used at some Board meetings, you will find enclosed the order of the Wake County Superior Court in a lawsuit challenging the legality of that system. (Encl. 2.) The court upheld the voucher system upon finding that the Board had “implemented reasonable measures to accommodate larger than normal crowds” and that “[m]eetings of the Board . . . are open to the public as contemplated by the Open Meetings Law.” We see no reason for the SRT to examine this matter further.

There is no apparent connection between your eighth request, which seeks a copy of the parent survey referenced in the District’s response to the SACS CASI letter, and AdvancED’s ASQS. Please describe the relevance of the survey to the accreditation status of individual high schools.

Together, your ninth and tenth requests ask for copies of the Board’s contracts with the Civitas Institute and local attorney Thomas Farr. These requests are puzzling, primarily because the Board’s choice of the Civitas Institute as one of several Board member training providers and of Mr. Farr as supplemental legal counsel does not appear to be a proper subject for any AdvancED inquiry. *See, e.g.*, N.C. Gen. Stat. § 115C-50 (authorizing school boards to designate

training providers). Please explain why you think the accreditation status of a particular high school could be imperiled by the Board's contracts with the Civitas Institute or Mr. Farr.

Your eleventh request seeks access to "all information and studies used in determining the financial impact of the January 5th Board Resolution on Calendar Choice." This is yet another matter that seems to have no bearing on the accreditation status of individual Wake County high schools. Please describe how any such information or studies could factor into a determination regarding a specific school's accreditation status.

Your last request is for copies of "all information, studies and contracts reviewed by the Board in reaching its decision to locate the H6 Wake County High School at the Rolesville site and to abandon the Forestville site" selected by the Board before the October 2009 election. The location of H6 is not referenced in either the complaint filed by Reverend Barber or the March 18, 2010, letter from SACS CASI. Please explain why this issue is raised for the first time in your July 28 letter and how it relates to the SACS high school accreditation standards.

Finally, the Board would like more information about the SRT process. AdvanceED's Policy VI (Procedures Regarding Complaints) offers little insight into what the Board should expect from an SRT visit. For instance, Policy VI says nothing about the composition of the SRT or whether the Board would be permitted to comment on or challenge an adverse SRT recommendation. The Board strongly believes the SRT should include at least one person who has served as a school board member to make sure that the team appreciates the Board's role in establishing policy for the District. Please identify the members of the proposed SRT and summarize their professional backgrounds. Additionally, please provide a detailed description of the procedures to be followed both before and after the preparation of an SRT recommendation, including any and all opportunities the District would have to challenge an adverse recommendation prior to any change in accreditation status.

We appreciate your attention to this letter and to the concerns and questions of the Board of Education. We look forward to receiving your response. Please feel free to contact me if you have any questions.

Very truly yours,

THARRINGTON SMITH, L.L.P.



Ann L. Majestic

cc: Wake County Board of Education Members
Dr. Donna Hargens, Superintendent