

MAR 13 2014

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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

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**FAHARI ACADEMY CHARTER SCHOOL,**

Index No. 100300 / 14

**Petitioner,**

**For a Judgment Pursuant to Article 78 of the Civil  
Practice Law and Rules and a Declaratory Judgment  
Pursuant to Section 3001 of the Civil Practice Law and  
Rules**

**NOTICE OF PETITION**

**-against-**

**Oral Argument Requested**

**BOARD OF EDUCATION OF THE CITY SCHOOL  
DISTRICT OF THE CITY OF NEW YORK d/b/a NEW  
YORK CITY DEPARTMENT OF EDUCATION,  
and CARMEN FARIÑA as CHANCELLOR of the  
New York City Department of Education,**

**Respondent.**

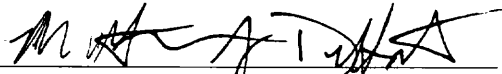
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**PLEASE TAKE NOTICE**, that upon the annexed Verified Petition, verified on March 12, 2014, together with the exhibits annexed thereto, and Petitioner's Memorandum of Law in Support of the Verified Petition, the petitioner will move this Court on April 25, 2014 at 9:00 a.m., or as soon thereafter as counsel can be heard, at the Supreme Court, New York County, Room/Part 130, at 60 Centre Street, New York, New York, for a judgment and order pursuant to Article 78 of the CPLR for the relief requested in the Verified Petition.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to CPLR § 2214, Respondents' answer and answering affidavits, if any, must be served upon the undersigned, as the attorney for the Petitioner, at least seven (7) days before the aforesaid return date.

Dated: New York, New York  
March 12, 2014

SHEBITZ BERMAN COHEN & DELFORTE, P.C.

A handwritten signature in black ink, appearing to read 'Matthew J. Delforte', is written over a horizontal line.

By: Matthew J. Delforte  
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Attorneys for Petitioner  
Fahari Academy Charter School

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

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**FAHARI ACADEMY CHARTER SCHOOL,**

Index No. 100300/14

**Petitioner,**

**For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules and a Declaratory Judgment Pursuant to Section 3001 of the Civil Practice Law and Rules** **VERIFIED PETITION**

**-against-**

**BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK d/b/a NEW YORK CITY DEPARTMENT OF EDUCATION, and CARMEN FARIÑA as CHANCELLOR of the New York City Department of Education,**

**Respondents.**

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Petitioner, FAHARI ACADEMY CHARTER SCHOOL (“Fahari” or “Petitioner”), by its attorneys, Shebitz Berman Cohen & Delforte, P.C., as and for its Verified Petition (“Petition”) herein against Respondents, the NEW YORK CITY DEPARTMENT OF EDUCATION (“DOE”) and CARMEN FARIÑA as CHANCELLOR (“Chancellor”) (collectively referred to as “Respondents”), alleges as follows:

**PARTIES**

1. Fahari is a not-for-profit education corporation chartered by the New York State Board of Regents (“Regents”) pursuant to New York Education Law §216. It is a public school pursuant to New York’s Charter School Act, codified by Article 56 of New York’s Education Law. Fahari’s principal place of business is 72 Veronica Place, Brooklyn, New York.

2. DOE is a municipal corporation and a city school district pursuant to New York Education Law Articles 52 and 52-A. Its principal place of business is 52 Chambers Street, New York, New York.

3. Chancellor is Fahari's "charter entity" as that term is defined by Education Law §2851(3)(a). As such, the Chancellor is responsible for the supervision and oversight of Fahari. The Chancellor is also vested with the powers and responsibilities established at Education Law §2590-h.

4. Venue lies in New York County because that is the county of Respondents' principal place of business, and where the decision under review was made.

### **BACKGROUND FACTS**

5. Upon the recommendation of the Chancellor, the Regents granted Fahari a full, five-year charter on December 16, 2008.

6. Fahari is co-located with the Walt Whitman Middle School, a DOE middle school serving students in grades six through eight in the DOE's District 17 in Brooklyn. The two schools share a cordial relationship.

7. Fahari opened its doors in August 2009. In its first year of operation it established a fifth grade and served approximately 90 students. It opened a sixth grade in year two (the 2010-2011 school year) and enrollment doubled to 180 students. The school added one additional grade per year. In 2011-2012, Fahari served grades five through seven, and in 2012-2013 it reached its full grade span of grades five through eight and its enrollment swelled to 334 students.

8. At the start of the 2013-2014 school year, Fahari served 400 students. Following Fahari's 2013 enrollment lottery, 321 students were placed on Fahari's wait list.

9. Fahari has always served a 100% minority community. Since the time it opened, African-American students have comprised between 95% and 99% of its student population, with the balance including students of Latino decent.

10. Fahari also has always served large numbers of students who are at risk of academic failure, which is partly what sets it apart from other charter schools. When it opened, 14% of Fahari's students were students with disabilities, and the overwhelming majority of its families were under economic stress, as 91.2% qualified for the free and reduced lunch program under No Child Left Behind ("NCLB").

11. Its at-risk population has grown considerably since it opened. In its second year in operation, Fahari began serving English Language Learners ("ELL").<sup>1</sup> Today, 20% of Fahari's students are classified as disabled. Notably, 29% of Fahari's 6<sup>th</sup> grade class is classified. Additionally, 6% of Fahari's students are ELL, and 84% qualify for free and reduced lunch. Of its students with disabilities, 66% are high needs children who receive special education services during 60% or more of the school day.

### **Initial Success**

12. Fahari enjoyed early successes, as the DOE site visit reports demonstrate. The DOE's first site visit of Fahari took place in April 2010, during the spring of its first year in operation. The DOE issued a glowing report, with no deficiencies to speak of. It read like a "how to" guide for establishing, operating and maintaining a successful charter school. A copy of the April 2010 Site Visit is attached hereto and incorporated herewith as Exhibit "A".

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<sup>1</sup> ELL students are students who are not English proficient pursuant to state standards.

13. A partial listing of the DOE's findings are excerpted below:

- a. The school maintains high academic expectations and employs differentiated strategies for the full range of students served, including students with special needs.
- b. The school follows clearly defined instructional expectations and practices aligned with State Standards, which support its mission of preparing students for college.
- c. Analysis of literature was observed in a reading workshop where students were asked to explain what conflict they had identified in the text, to identify what caused the conflict, and to describe the underlying tension in greater detail.
- d. The school utilizes differentiated instruction and an integrated curriculum to promote student proficiency and meet the needs of all learners.
- e. There is homogeneous grouping in Math and ELA based on student skill level as determined by assessments, as well as further differentiation of skill groups when needed.
- f. The school utilizes co-teaching in the classes where students need additional support.
- g. The school provides additional support in reading for selected students through guided reading groups using the Wilson Reading Intervention Program.
- h. Tutoring is provided by Kaplan for selected students, who receive two hours of assistance twice a week during school time and two additional hours on Saturdays.
- i. The school employs a rigorous assessment system and strong data-tracking tools to monitor student performance and behavior and inform teaching and learning.
- j. The school employs the Fountas and Pinnell Leveled Reading Assessment, the Stanford 10 baseline assessments, the NYS ELA and Math exams, and teacher-developed assessments aligned with the New York State Standards.
- k. The school utilizes clearly defined classroom, internal operating system, and communication protocols to which all members of the community are held accountable.

- l. Student behavioral data is entered online and used to track individual students as well as to identify school-wide behavior trends.
- m. The school fosters a safe learning environment which encourages both student academic progress and teacher professional development.
- n. Teachers have common planning time each day for preparing curriculum and for professional development in assessment development, co-teaching, and content- specific knowledge.
- o. Teachers attend three weeks of professional development during the summer.
- p. All members of the staff are advisors. Advisory meets 5 times a week, and advisory groups (including advisors) eat lunch together daily.
- q. The school is in good financial condition and maintains appropriate internal control.
- r. The school board is providing adequate and balanced oversight.
- s. The board reviews reporting from the management, notes from committees, standardized test data, an at-risk student list, and attendance and suspension figures, among other notes and statistics.

14. In the section entitled, “What the School Needs to Improve”, the DOE identified nothing and instead encouraged Fahari to continue to develop systems and strategies it already had in place with respect to its already “extensive professional development”, its “college preparatory program”, and its “collaborative staff environment as the school grows to scale.”

### **Early Struggles with Attrition and School Culture**

15. During Fahari’s second and third years in operation it struggled to retain teachers and students. Upon information and belief, the problems arose from the inability of Fahari’s founding Executive Director, Catina Venning, to manage effectively as the school grew in years two and three. Additionally, she took a disciplinarian approach to managing staff and students, and the school culture soon deteriorated.

16. During Fahari's first two years, Ms. Venning terminated teachers and staff who disagreed with her management style and decisions. Many teachers who were not terminated quit or did not return after each school year. By the end of the 2010-2011 school year, Fahari's second year in operation, teacher turnover was 73%. The following year it had declined to 40%, but the work culture remained poor.

17. Similarly, Ms. Venning took an extremely punitive approach to student discipline. "Zero tolerance" and "No Excuses" was the discipline model employed and in-school and out-of-school suspensions were issued excessively. In the 2010-2011 school year, there were 97 in-school suspensions and 128 out-of-school suspensions. In the 2011-2012 school year, the in-school suspension numbers improved markedly with only 8 suspensions, but the out-of-school suspensions remained high with 91 through March 2012. The overly strict approach to student discipline led to higher than normal rates of student attrition. By the end of Fahari's second year, it lost about a quarter of its students, reducing enrollment from approximately 180 to 133.

18. Adding to Fahari's early challenges, it also struggled to retain members of its Board of Trustees ("Board") during the first two years of its charter, which impacted negatively on school governance.

19. In an effort to stem the tide of Board attrition, the Board undertook a recruitment effort during the spring of 2011. As part of this effort, in April 2011 it found Jason Starr. Mr. Starr was finishing law school and, looking forward, wanted to get involved in volunteerism after graduation, as he had done throughout his early adulthood. He thought Board work would be a good way to do so. He agreed to join and was appointed to the Fahari Board in June 2011.



### **May 2011 Annual Site Visit**

20. As part of its monitoring process, the DOE conducts annual site visits of the charter schools it authorizes. The student and staff attrition issues were recognized by the DOE during its May 2011 site visit.

21. Like the 2010 site visit report, the 2011 report identified numerous areas of strength. In particular, the DOE recognized Fahari's strong, creative professional development program, its high academic expectations and strategies for all students, including students with disabilities, a rigorous curriculum focused on math and literacy, an extended school day, and a strong school culture designed to engage parents and students, which, in turn, promotes learning.

22. However, the report also made several recommendations focused on the student and staff retention and student discipline problems that had arisen in Fahari's second year, noting the high number of in-school (97) and out-of-school (128) suspensions that were issued. A copy of the May 2011 Site Visit Report is attached hereto and incorporated herewith as Exhibit "B".

### **Notice of Deficiency**

23. Four months later, with its second full year in operation complete, the DOE issued Fahari a "Notice of Deficiency", dated September 6, 2011, which was based on the student and staff attrition the DOE had witnessed at its May 2011 site visit. A copy of the Notice of Deficiency is attached hereto and incorporated herewith as Exhibit "C".

24. The Notice of Deficiency identified four areas of concern. Those areas included Fahari's ability to: (1) hire and retain quality staff; (2) maintain student enrollment; (3) maintain an appropriate behavior management system; and, as a result of the above conditions, (4) effectively serve its students.

25. Within the next ten days, on September 12<sup>th</sup> and 16<sup>th</sup> respectively, the secretary and chairperson of Fahari's Board resigned. The Vice-Chair, Davion Lewis, abdicated during this time as well. He informed the Board that he could not attend the September 2011 board meeting and failed to attend any further meetings or respond to any correspondence thereafter. He was officially removed by the Board on December 3, 2011.

26. By letter dated October 4, 2011, with morale worsening as year three began, Fahari's teachers informed the school that they had voted to unionize and sought recognition. Fahari's Board voted to recognize the teachers as a bargaining unit on December 3, 2011.

27. Upon information and belief, due to the challenges and volatility presented by the high student and staff attrition, the consequent unionization, a deteriorating school culture, and the loss of two board members without notice, Ms. Venning asked Dirk Tillotson, the Director of the New York Charter School Incubator ("Incubator"), to join the Board.

28. Mr. Tillotson's experience in creating and supporting successful charter schools was extensive and he was a recognized leader of the charter school movement in New York State and beyond.

29. Mr. Tillotson was very knowledgeable about Fahari as he and the Incubator had provided support and consultation to the school during the charter application process, and after Fahari opened its doors.

30. Upon information and belief, Ms. Venning believed Mr. Tillotson would provide valuable leadership to the Board as the school undertook addressing the issues raised by the DOE in its Notice of Deficiency, and to stabilize the deteriorating school culture.

31. Mr. Tillotson agreed to join the Board and was appointed in or around October 2011.

32. As the first half of the 2011-2012 school year wore on, Fahari's culture did not improve. The Board attributed the increasing problems it was seeing to Ms. Venning's inability to manage effectively. The Board debated terminating her throughout the fall of 2011.

33. Rather than terminate Ms. Venning, the school's founder, the Board decided to change to a co-leader model, which it implemented in January 2012. It created an "Academic Leader" position in an attempt to support Ms. Venning by reducing her responsibilities and allowing her to focus on managing operations and the cultural team.<sup>2</sup> She retained her "Executive Director" title, but duties were divided and each position reported to the Board.

34. The Academic Leader was responsible for academic oversight, instructional coaching and evaluation, curriculum alignment, student assessments, and all aspects of the academic program.

35. The Board hired Glenn Liebeck as its first and interim acting Academic Leader. Mr. Liebeck worked at the Incubator and had previously provided consultation services to Fahari with Mr. Tillotson, so he knew the school well. He resigned his position at the Incubator and came aboard as Fahari staff in January 2012.

36. Partnering Ms. Venning and Mr. Liebeck was a failed endeavor. Their relationship deteriorated as the latter half of the 2011-2012 school year advanced, and Ms. Venning withdrew from her leadership responsibilities and became frequently absent without warning.

### **March 2012 Site Visit Report**

37. The turnaround effort was in its infancy, but by the time of the DOE's site visit in March 2012, change was already afoot. The site visit report identified several areas of strength and the numerous changes that the Board had instituted to address the concerns raised by the

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<sup>2</sup> The Fahari Culture Team was comprised of the Dean of Students, Director of Family Engagement, guidance counselors, social workers, and cultural associates who provided administrative support to the Cultural Team.

DOE in the Notice of Deficiency it had issued just six months earlier. In particular, the DOE recognized Fahari's organizational restructuring and its change to a co-leader model; its hiring of an ELA staff and curriculum developer; and its efforts in hiring key staff. A copy of the March 2012 site visit report is attached hereto and incorporated herewith as Exhibit "D".

38. In the report, the DOE provided numerous examples of Fahari's "areas of strength". To summarize, the DOE concluded that Fahari: (1) had "established an orderly environment that is conducive to learning; (2) devoted "significant resources to support teaching and learning"; and (3) "administers regular assessments and collects and analyzes data to inform instruction and programmatic decisions."

39. However, the DOE also identified several areas that were in need of growth, including the areas it had previously identified in the Notice of Deficiency. The DOE reported that the high staff turnover limited the staff's ability to deeply understand and take ownership of the curriculum, and limited the efficacy of staff development. It did, however, note that substantial resources had been devoted to staff development, and that teachers felt much more supported than in years past. The DOE also observed inconsistencies among teachers and their ability to challenge and engage students (not unlike all schools). It also reported that Fahari did not have a clear program in place for meeting the needs of ELL students, and that more focus needed to be placed on efforts to recruit students with disabilities and ELL. Furthermore, the report recognized that a new leadership model had been put in place and indicated that the instructional leadership was new, focused, and had high expectations and clear beliefs about effective pedagogy, but suggested that the philosophy and expectations had not yet translated to the faculty or classroom practices because the model and team were new.

40. Toward the end of the school year, Ms. Venning had all but abandoned her position. Sensing her termination, on June 6, 2012, she resigned effective June 22, 2012.

41. As Ms. Venning became increasingly withdrawn and absent during the spring months, Mr. Tillotson, the Board Chair, became increasingly more involved in the day-to-day operational oversight of the school out of necessity. With Ms. Venning's departure, the Board asked Mr. Tillotson to transition to the interim Executive Director position, which he agreed to do.

### **Fahari's Turnaround Begins in Earnest**

42. In July 2012, Mr. Tillotson resigned his position from the Board and became Fahari's Interim Acting Executive Director. Mr. Starr succeeded Mr. Tillotson as Board Chair. In addition, the school hired Dr. Joanne Falinski as the Academic Leader, while Mr. Liebeck stayed on as her deputy.

43. With the interim leadership team assembled, Fahari worked day and night throughout the summer to address the staff and student attrition issues identified by the DOE. It worked to create a school culture where, as when Fahari started, teachers wanted to work and students wanted to learn.

44. The leadership team spent the summer recruiting high quality staff; providing professional development and instructional coaching to returning teachers; developing and revising curriculum for alignment to the Regent's new and evolving Common Core standards; and evaluating and devising strategies for improving upon all aspects of the academic program.

45. As part of the turnaround effort, Mr. Tillotson met with each and every teacher to understand how teachers could be better motivated and supported in order to place the teacher in the best position to be successful. He learned that teachers needed more time to plan, better

teaching materials, and more and better coaching support. He also learned that teachers felt that their suggestions on how to improve in these areas were not well received by the previous school leadership team.

46. As a result of the teacher meetings, Fahari changed its school day to allow more time for lesson planning and peer support; hired subject matter experts to work with teachers on development and implementation of Common Core-based lessons and sequencing of same; retained consultant coaches to provide weekly on-site support to teachers as they planned, modified, supplemented, and implemented curriculum; hired additional classroom support staff to make teacher workloads more manageable; and planned for regular teacher satisfaction meetings to establish and maintain a healthy workplace environment.

47. Fahari also hired a Director of External Affairs whose responsibility was to manage staff recruitment, orientation, and retention.

48. Regarding its efforts to improve school culture and eliminate student attrition, Fahari undertook a review of its discipline policy and practices and determined to replace its “zero tolerance”, merit/demerit system with a positive behavioral management system. Among other things, the new system actively awarded students points for positive behaviors. Students who earned enough points were recognized and celebrated for their good citizenship and behavior at weekly community meetings and as students-of-the-month, who were also honored in Fahari’s monthly newsletter.

49. The leadership team developed Board of Trustees Dashboards—data-driven reports designed to keep the Board informed on the progress toward achieving the turnaround goals. One of the Dashboards included a student attrition metric, so that the Board could closely and regularly monitor the issue, and discuss the data and progress at their monthly meetings. The

Board also began a professional development program in August 2012, with its first annual governance retreat and follow-up coaching.

### **Letter of Probation and CAP**

50. As the new team was examining and working to address the attrition and school culture issues, and also strengthen its academic programs, the DOE placed Fahari on probation by letter dated August 27, 2012. In the letter, the DOE advised Fahari that its March 2012 site visit revealed that the issues expressed in the August 2011 Notice of Deficiency had not been satisfactorily resolved; that it was therefore in breach of its charter; and that Fahari must submit a corrective action plan (“CAP”) on or before October 1, 2012, which was only a month away. A copy of the probation letter is attached hereto and incorporated herewith as Exhibit “E”.

51. Because the newly inserted leadership team had been already working without pause to address these issues before the probation letter was issued, Fahari was able to quickly prepare and submit a comprehensive CAP response that responded in detail to each of the four areas of concern identified in the probation letter. A copy of the CAP, dated October 2, 2012, is attached hereto and incorporated herewith as Exhibit “F”.

52. Because the DOE had not provided Fahari with a response to its CAP, in January 2013, Elizabeth Lenig, Fahari’s Vice Chair, reached out to the DOE’s Charter Schools Accountability and Support (“CSAS”) office to request a conference call.

53. Thereafter, Mr. Starr spoke with Sonia Park, the Executive Director of CSAS, and Daree Lewis, a Senior Director of CSAS and the person at the DOE’s CSAS who was responsible for Fahari, to discuss the status of the CAP. The call took place on or about February 20, 2013.

54. During the call, Ms. Park and Ms. Lewis informed Mr. Starr that everything “looked good”, that the decision was under review, and they requested one additional piece of data regarding teacher certifications.

55. Upon information and belief, Mr. Tillotson provided the requested additional information regarding teacher certifications the same day it was requested, or shortly thereafter.

56. Mr. Starr followed up again with Ms. Lewis in or around March 2013, since he had not heard from the CSAS and wanted to know the status of the CAP and probation. Ms. Lewis acknowledged receiving the data and said “we’re good”. CSAS was satisfied with the CAP.

57. After more than a year-long search, Fahari found and hired its new Principal, Stephanie Clagnaz, Ed.D., M.Ed., a seasoned educator who came aboard on May 15, 2013. Dr. Clagnaz’s educational and professional background are set forth in her Affidavit in Support of the Petition, a copy of which is attached hereto and incorporated herewith as Exhibit “G”.

#### **First Renewal Visit: June 4, 2013**

58. Only three weeks later, on June 4, 2013, the DOE conducted its first of two renewal visits. The DOE renewal visit team undertook a comprehensive review of Fahari. They interviewed each and every teacher and member of Fahari’s leadership team, as well as Board members in attendance. Parents and students were also interviewed. The visit lasted the entire day.

59. When the visit was concluded, the DOE team intended to leave; however, Mr. Tillotson asked the DOE’s team to stay and debrief Fahari’s leadership team and the DOE agreed to do so.

60. The DOE team’s feedback was overwhelmingly positive, across all segments of the school—governance, legal compliance, non-instructional, and, importantly, instructional



programs. Regarding the instructional program, the DOE team noted that it observed evidence of significant improvement and made recommendations on how to continue to improve the academic program, which Fahari implemented almost immediately. The DOE also specifically commented on the marked improvement of Fahari's services and programs for students with disabilities.

61. Sonia Parks recognized the strong progress Fahari had made on the attrition issue.

62. Ms. Lewis added that classroom improvement was evident; that students were learning and more on task than previously observed.

63. Simeon Stolzberg, a DOE independent consultant who was part of the DOE renewal team, reported that he saw excitement from the staff, a common vision among the leadership team, and that staff were jelling.

64. That the year-long turnaround effort was overwhelmingly successful was obvious. The DOE's feedback was, undeniably, recognition of the same.

### **Probation Expires**

65. At the time of the site visit, the DOE had not yet formally removed Fahari from probation. While CSAS had previously expressed to Fahari during informal conversations during the spring months that no additional information was needed, and that their articulated concerns had been satisfied, Mr. Tillotson asked the renewal site visit team about their probation status. Mr. Tillotson and the Board were concerned, because the probation status was inhibiting Fahari's ability to procure grant opportunities, and Fahari obviously wanted that designation formally withdrawn since the DOE had informed Jason Starr on multiple occasions previously that the DOE's concerns had been allayed.

66. In response to Mr. Tillotson's inquiry, the DOE reassured the School that it had satisfied all of its concerns and conditions, and that it would remove the School from probation.

67. On August 31, 2013, pursuant to the DOE's August 27, 2012 probation letter, Fahari's probation expired. The DOE later acknowledged same in the November 2013 Renewal Report at page "9". A copy of the Renewal Report is attached hereto and incorporated herewith as Exhibit "H".

68. As part of the charter school renewal process the CSAS office asks renewal applicants a series of "clarifying questions" regarding application submissions.

69. On September 16, 2013, Ms. Lewis emailed Fahari the CSAS office's clarifying questions. In her email, to the disbelief of the Board, Ms. Lewis also requested an update on the items contained in Fahari's CAP, which had been provided to CSAS one year earlier, and stated that "the school [would] not be removed from probation without an update on the status of the school's actions." A copy of Ms. Lewis's email, dated September 16, 2013, is attached hereto and incorporated herewith as Exhibit "I".

70. The Board was incredulous because: (1) the DOE had, during informal conversations throughout the preceding year, informed Mr. Starr, Mr. Tillotson, and others that Fahari had satisfied all of the DOE's concerns stated in the August 27, 2012 probation letter, and that the CSAS needed no further information on the matter; and (2) by its express terms, the probation letter had expired two weeks earlier on August 31, 2013.

71. Ms. Lewis completely mishandled the situation, as evidenced by the DOE's own acknowledgment and admission within the Renewal Report that Fahari's probation had expired on August 31, 2013.

72. In connection with Fahari's charter renewal application, the DOE's CSAS conducted the statutorily required public renewal hearing on September 23, 2013. The community showed absolute support for Fahari's renewal. Approximately 400 families attended the hearing. Forty-five parents of both children who were enrolled, and even children who had graduated, spoke in support of Fahari's renewal. Not one person from the community spoke in opposition to it.

73. During the renewal application process, the DOE conducted twenty random calls to parents of currently enrolled Fahari students across all grades to elicit feedback about their experience at the school.<sup>3</sup> 100% of the parents polled provided positive feedback about Fahari.<sup>4</sup>

74. As further evidence of the parent community's overwhelming support for Fahari and its renewal, the affidavits of Danni Antenor, Samantha Imhoff, Anne Louisa, Donna Witt, Sherma John, and Suzanne Kearse, all parents of Fahari students, are submitted and incorporated herewith as Exhibits "J, K, L, M, N and O", respectively.

#### **Second Renewal Site Visit: September 30, 2013**

75. The DOE returned for its second and final renewal site visit on September 30, 2013. Upon information and belief, the renewal team consisted of the same members who comprised the June 4<sup>th</sup> renewal visit team.

76. The team again spent the entire day observing classrooms, interviewing teachers and school leaders, reviewing school policies and procedures, and the like. Again, the DOE's feedback was almost entirely positive, across all segments of the school, as well as constructive with respect to recommendations for ways in which Fahari could continue its obvious improvement.

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<sup>3</sup> See, Exhibit H, Renewal Report, page 18.

<sup>4</sup> *Id.*

77. During the visit, both Elaine Gorman, Senior Superintendent of the DOE's Division of Portfolio Planning, and Ms. Lewis, separately and independent of one other, recognized and acknowledged the obvious improvements that the school had made and its upward trajectory, and asked Dr. Clagnaz how long it would be until she thought Fahari's testing data would reflect the improvements in student learning that were plain to see already.

78. Dr. Clagnaz opined that it should take about three years, because this was the first year that her team's realignment of Fahari's curriculum to the Common Core standards could be delivered to children who, until now, did not poses the fundamental, pre-Common Core, academic skills necessary for advancement to Common Core subject matter content.

79. Ms. Gorman and Ms. Lewis both readily agreed with her assessment, and indicated that a three year timeframe was a reasonable and realistic period that Fahari needed in order for introduction and attainment of Common Core content that was, up to now, foreign to this population of students.

80. Fahari's children were tested on the Common Core aligned standardized tests administered by the state in 2012-2013, notwithstanding the fact that many of its children did not poses the basic skills necessary to read the questions asked, let alone understand how to answer them, and notwithstanding the additional fact that most Fahari students had not been taught a curriculum that was even aligned to the Common Core.

81. Nevertheless, upon information and belief, the DOE relied almost exclusively on Fahari's 2012-2013 test scores in deciding not to renew Fahari's charter.

82. When the visit and debrief concluded, given all of the positive feedback, Fahari's Board, leadership team, teachers, and staff believed that at least a short-term, 3-year renewal was all but assured.

83. Also on September 30, 2013, and included in Fahari's response to the DOE's request for clarifications, Fahari's Board Chair, Jason Starr, responded to Ms. Lewis's September 16, 2013, email request for clarifying questions and an update to Fahari's CAP. A copy of Mr. Starr's September 30<sup>th</sup> email to Ms. Lewis, including the attachments referenced therein, is attached hereto and incorporated herewith as Exhibit "P".<sup>5</sup>

84. Upon information and belief, neither Ms. Lewis, nor anyone else at the CSAS office, responded to Ms. Starr's letter.

85. The DOE issued a draft renewal report to Fahari on November 1, 2013. The draft report did not include a renewal recommendation and was considered "unofficial." The Board submitted proposed factual edits on November 7, 2013. During this time, there was never a time when the DOE indicated or even implied that Fahari's charter would not be renewed.

86. On November 13, 2013, the highly controversial DOE school Progress Report grade was published, and Fahari received an "F". It has been widely reported that Mayor Bill de Blasio will do away with the school Progress Report grading system.

87. Upon information and belief, DOE's school Progress Report grade system has been roundly criticized by the education community as an unreliable school accountability measure that is, among other things, overly reliant upon testing data that lacks context and does not tell the whole story about how a student is progressing or whether a school generally is healthy.

88. On November 13, 2013, when the school Progress Report grades were released publically, a spokeswoman for the then Mayor-elect said that Mr. de Blasio "would eliminate

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<sup>5</sup> For the Court's convenience, we submit only page 15 of the letter's Attachment B, which was Fahari's 49-page Employee Handbook, because only page 15 was applicable to Fahari's letter submission.

letter grades of schools which offer little real insight to parents and are not a reliable indicator of how schools are actually performing.”<sup>6</sup>

89. On the very same day, Sonia Park informed Mr. Starr and Stephanie Clagnaz, the School’s Principal, by letter that the DOE had decided to deny Fahari’s renewal application. A copy of the November 13, 2013 non-renewal letter is attached hereto and incorporated herewith as Exhibit “R”.

90. In addition, Ms. Parks informed Mr. Starr and Ms. Clagnaz that the DOE had decided to extend Fahari’s charter to June 30, 2014, in order to minimize the disruption that would otherwise occur if the School were closed on the charter’s December 15<sup>th</sup> expiration date.

91. Toward that end, Ms. Park included with her letter a renewal agreement reflecting a renewal through June 30<sup>th</sup>. Remarkably, Ms. Park warned that if the Board did not sign, notarize, and deliver the renewal agreement to the CSAS office by 5:00 p.m. on November 14<sup>th</sup>, the school would not be renewed through June 30, 2014, by the Regents at its meeting scheduled for Monday, November 18<sup>th</sup>, and instead would be closed on December 15, 2013, when the charter expired.

92. Embarrassingly, the proposed, unilateral renewal agreement contained the names of board members from a different charter school—Ross Global Academy Charter School—which had been closed in or around January 2011.

93. Because the renewal agreement was a legal, binding contract, and Fahari felt coerced and under duress on account of being threatened to sign and return a 17-page contract within 24 hours, that stated on its face Fahari would not be renewed, the Board referred the matter to its

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<sup>6</sup> As reported by CBS 2 New York and the Associated Press on cbs2newyork.com, November 13, 2013, a copy of which is attached hereto and incorporated herewith at Exhibit “Q”.

legal counsel, who advised Ms. Park that Fahari disagreed with the DOE's decision and would not sign the renewal agreement.

94. On November 15, 2013, Ms. Lewis informed Mr. Starr by email that the Regents vote on Fahari's short-term renewal would be postponed until its December 2013 meeting. She also enclosed a copy of a revised Renewal Report because the Renewal Report issued on November 13, 2013 was incorrect. Remarkably, the Renewal Report that was issued on November 13<sup>th</sup> omitted the DOE's decision not to renew Fahari's charter. Thus, Fahari received the DOE's final and effective Renewal Report and was officially noticed of its nonrenewal by and through same on November 15, 2013. A copy of Ms. Lewis's email to Mr. Starr dated November 15, 2013, is attached hereto and incorporated herewith as Exhibit "S".

### **The Renewal Report**

95. According to page 10 of the Renewal Report (Exhibit H hereto), four essential questions comprise the DOE's accountability framework for determining whether to a renewal a school. The first three questions ask whether a school is (1) an academic success, (2) fiscally sound, and (3) compliant with its charter and all applicable laws and regulations. The last question regards a school's plans for its next charter term.<sup>7</sup>

96. The Renewal Report states that it is based on the cumulative record of a school's progress over the course of its charter term, and includes, among other considerations, findings from oversight visits, annual reports, and its findings from the renewal application process.<sup>8</sup>

97. The Renewal Report reflects that the DOE's decision not to renew Fahari's charter was based overwhelmingly on Fahari's school Progress Report issued by the DOE on November 13, 2013, and, primarily on the academic performance data recorded within it.

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<sup>7</sup> Renewal Report, page 10.

<sup>8</sup> *Id.*

98. Moreover, Fahari's 2012-2013 test scores form the basis of the Student Progress and Student Performance scores on Fahari's DOE-issued school Progress Report grade, which accounts for 85% of the academic performance grade.

99. The Renewal Report reflects at page 4 that when determining a school's Progress Report grade, it places the greatest emphasis on the "Student Progress" section, which comprises 60% of a school's grade and "Student Performance", which constitutes 25% of a school's grade.

100. The Renewal Report states that the "Student Progress" grade is a measurement of a school's student performance on the state standardized tests relative to students in other schools with the same prior years' score.

101. The Renewal Report further reflects that the "Student Performance grade is based on results on the state tests in English and math, and core course pass rates...."

102. Beginning with the 2012-2013 school year, Board of Regents adopted its Common Core curriculum standards, and also tied its annual standardized tests in math and English to the newly implemented Common Core standards.

103. The Student Progress and Student Performance data used to issue Fahari's Progress Report grade fails to accurately reflect student progress and performance at Fahari for two critically important reasons.

104. First, as stated above, the Student Progress data and grade is a patently unfair and wholly irrelevant measurement because the overwhelming majority of students who enter Fahari in the fifth grade are in need of serious academic intervention and do not possess basic literacy and math skills. The same is generally true for any new sixth, seventh, and eighth grade students. As a result, those students are not introduced to the Common Core aligned curriculum until after they obtain the basic literacy and math skills needed to even contemplate a move to



the advanced Common Core aligned curriculum. Nevertheless, these children are required and do take the State's standardized tests, which are aligned with, and based on, the Common Core standards adopted by the Regents.

105. Second, because Fahari's DOE-issued Progress Report also uses the Common Core based standardized test results to measure Student Performance, the Student Performance grade also is patently unfair and wholly irrelevant. It is even more so, however, because the DOE also considers "core course pass rates" in determining the Student Performance grade, and the passing standards established by Fahari for its students are significantly higher than the passing standards established by the DOE for its students.

106. As part of its charter goals, Fahari established its course passing grade at 70% for fifth grade students; 72.5% for sixth grade students; 75% for seventh and eighth grade students. The DOE, on the other hand, has set the passing rate for its core courses at 65% for all of its grades. As explained more fully in the Affidavit of Dr. Stephanie Clagnaz, Fahari's Principal, Fahari's initial applicants keyed its academic goals to passing rates that were well intended but overly ambitious and far too high for the population of children enrolled at Fahari.

107. Moreover, the DOE ignores perhaps some of the most telling examples of student progress of all. For example, there is a direct correlation between the length of time that a student is enrolled at Fahari to their rate of success on nationally normed assessments and even the state standardized tests.

108. Fahari's data reflects that proficiency levels for Fahari students who were enrolled in 2010, 2011, and 2012, improved from 45.5% to 54.4% to 77.3% respectively on the New York State ELA exam, and 70.5%, to 63.5% to 86.4% respectively on the New York State math

exam. A three year analysis, entitled “The Longer Students Stay at Fahari the More they Achieve” is attached hereto and incorporated herewith as Exhibit “T”.

109. Similarly, Fahari students showed tremendous progress on nationally normed reading and math tests from June 2010 to June 2012, with 78.7% of Fahari’s students achieving positive growth in reading and 81.8% of its students achieving positive growth in math, and a mean growth of 14.1% and 6.5% respectively. Notably, the percentage of students at or above grade level in that time period increased from 33.3% to 72.7% in reading, and from 36.3% to 60.0% in math. A progress report entitled “Percent of Students at or Above Grade Level on the Stanford 10 Nationally Normed Reference Exam” is attached hereto and incorporated herewith as Exhibit “U”.

110. Furthermore, from 2011 to 2012, twenty-percent more Fahari students performed at or above the proficiency rate on the New York State ELA exam, and 18.9% more Fahari students performed at or above proficient on the New York State math exam. A progress report entitled “Students Attending Fahari Academy Charter School For Just Two Years On Growth Track For Success” is attached hereto and incorporated herewith as Exhibit “V”.

### **A Convenient Tale of Two Schools**

111. The Renewal Report contains evidence of Fahari’s successful turnaround efforts throughout it.

112. Unfortunately, the casual reader would not necessarily understand at first brush is that virtually every point of criticism contained in the Renewal Report relates to the “pre-turnaround” Fahari, not the Fahari of today.

113. A closer examination of the Renewal Report reveals a much different story, one illustrative of why the DOE's decision not to renew Fahari's charter makes no sense at all. For example, the Renewal Report indicates:

- a. The school made improvements and 85% percent of eighth-grade students passed the Living Environment Regents examination at the end of the 2012-2013 school year.
- b. Staff and student attrition issues have been resolved. Staff retention increased to 87.5% at the beginning of the 2013-2014 school year from the 44% turnover rate the year prior. Student attrition dropped to a mere 4%.
- c. The DOE terminated Fahari's probation status because the Board's CAP satisfactorily addressed all of the DOE's concerns regarding compliance, academics, pedagogy and curriculum.
- d. When the turnaround effort began during the summer prior to the 2012-2013, the school hired content specialists in ELA, math, science and social studies as consultants to align the curriculum to the Common Core Learning Standards. The consultants created the scope and sequence documents, curriculum maps, and curriculum crosswalks."
- e. "During the 2012-2013 school year department chairs for core subjects were created and assumed this work when the school year started."
- f. "To respond to the increase in the number of students with disabilities, the school has 11 homerooms that employ co-teaching in core subjects."
- g. "To support these students, the school leadership reported that the school has more than doubled its special education staff, added a reading specialist and two special education coordinators."
- h. "In all observed classes, students were responsive to teacher directions and instruction."
- i. "In all observed classes, most students were on task. Off-task students were effectively redirected returning to the tasks."
- j. "All classrooms had instruction that aligned with the instructional model and current academic goals of the school."
- k. "All interviewed teachers reported that they received school-based professional development both in the summer and weekly during the school year, with the administration providing resources."

l. “Some teachers mentioned participating in the school’s mentoring program, where new teachers are paired with more experienced teachers.”

m. “Most of the interviewed teachers mentioned the use of Charlotte Danielson’s Framework for Teaching for teacher observations and evaluations conducted by the school’s leadership.”

n. “Many of the interviewed teachers discussed receiving feedback from the co-interim acting directors or the principal.”

o. “Teachers noted that they have common planning time. Observations of planning meetings revealed that teachers use this time for “kid-talk” and to discuss lesson plans and objectives.”

p. “Overall, the school is in a strong position to meet near-term financial obligations....There was no material weakness noted in the 2009-2010, 2010-2011, and 2011-2012 independent annual financial audits.”

q. The Board is in compliance with all applicable laws and regulations; however, the DOE noted that “over the course of the charter” is has not consistently provided submission of documents to the DOE when requested. Upon information and belief, there have been no instances of that since the turnaround.

114. Indeed, it is plain to see that virtually all of the positive aspects of the Renewal Report pertain to the Fahari of today. More importantly, the Renewal Report describes a school that is a place where teachers want to work and students want to learn. The DOE’s refusal to allow Fahari to stay open long enough to test its turnaround with midterm student progress and performance data, let alone any at all, was not only arbitrary and capricious, but also illogical and patently unfair.

115. Accordingly, Fahari, the hundreds of employees, and, most importantly, the students and families who have come to love it, deserves a chance for the “new Fahari” to succeed.

### **DOE's Arbitrary Reliance on "Charter Goals Met" Criteria**

116. The Renewal Report states that a school will satisfy these questions by demonstrating that its students have made significant academic progress and that it has met the goals and objectives that it pledged to meet in its initial charter.

117. Upon information and belief, the DOE renewed numerous schools this year that failed to meet most and, in one case, even all of its self-imposed charter goals, but were nevertheless renewed.

118. Other than Fahari, a review of six charter school renewal reports reveals that only two of the six schools met more than half of their academic charter goals (one meeting 55% of its goals, which was granted a full five year renewal with conditions, and one meeting 53% of its goals, and partially meeting another 5%, which was granted a three year renewal).

119. The remaining four charter schools included Growing Up Green Charter School, The Equality Charter School, Summit Academy Charter School, and Lavelle Preparatory Charter School.

120. Growing Up Green Charter School met 44% of its stated goals, and 24% were partially met. It was renewed by the DOE for three years.

121. The Equality Charter School met only 23% of its goals, and partially met 9% of its goals. The Equality Charter School was fully renewed.

122. Summit Academy Charter School met 8% of its charter goals. Specifically, it met only 2 out of its 24 pledged academic goals over the course of its initial charter term, meeting 1 goal in its second and fourth years and 0 goals in years one and three. In addition, Summit's renewal report reflects that it is not considered to be a school "in good standing" under state and federal guidelines and that the New York State Education Department has placed it on the

“schools in need of improvement” list. Notwithstanding, the DOE renewed Summit for a three-year term

123. Lavelle Preparatory Charter School did not meet a single goal in its first charter term, yet the DOE recommended renewal for a full five year term.

124. Fahari met 35% of its overly aggressive academic charter goals, but was not renewed.

125. Moreover, upon information and belief, Fahari is and always has been a “school in good standing” with the State Education Department, based on its compliance with federal and standards required by NCLB.

#### **AS AND FOR A FIRST CAUSE OF ACTION**

126. Petitioner repeats and realleges all of the foregoing allegations set forth above in this Petition as though fully set forth anew herein,

127. Education Law §2855 provides an opportunity to cure deficiencies and a due process hearing to a charter school when its charter entity decides not to renew its charter.

128. The Legislature intended that Education Law §2855 apply to charters schools whose charter entity decided not to renew their charter and charter schools whose charter entity decided to revoke or terminate their charter to ensure that any such school be afforded appropriate due process. Please see the Affidavit of Steven Sanders, former New York State Assemblyman and an architect of the Charter School Act (Ex. “W” hereto).

129. The DOE has taken the position in this case and in previous litigation that Education Law §2852 applies not only to how renewal applications are determined, but also to the process applicable when a charter entity decides not to renew a school’s charter.

130. In particular, the DOE has asserted here and in past litigation that when a school's charter is not renewed, it is afforded no process whatsoever, including but not limited to judicial review, pursuant to Education Law §2852(6).

131. The DOE's interpretation that Education Law §2852 applies to nonrenewal and not Education Law §2855 is wrong.

132. Education Law §2853(1) expressly states that §2855 is the statutory section of the Charter School Act applicable to the process afforded to a school when its charter is not renewed.

133. The DOE has applied the wrong statute to the process due to Fahari and, in doing so, acted in contravention of law. Fahari is therefore entitled to judgment declaring that Education Law §2855 governs the DOE's nonrenewal decision and that Fahari is entitled to full judicial review of the DOE's decision.

#### **AS AND FOR A SECOND CAUSE OF ACTION**

134. Petitioner repeats and realleges all of the foregoing allegations set forth above in this Petition as though fully set forth anew herein.

135. Education Law §2853(1) provides: "Upon termination or *nonrenewal of the charter of a charter school pursuant to section twenty-eight hundred fifty-five of this article*, the certificate of incorporation of the charter school shall be revoked by the board of regents pursuant to section two hundred nineteen of this chapter, *provided that compliance with the notice and hearing requirements of such section twenty-eight hundred fifty-five of this article* shall be deemed to satisfy the notice and hearing requirements of such section two hundred nineteen" (emphasis added).

136. Under Education Law §2855(2), the DOE was required to provide the Fahari Board with notice of the proposed non-renewal of its charter “at least thirty days prior to the effective date of the proposed revocation.” Moreover, the notice was required to include a statement of the reasons for the proposed non-renewal.

137. Education Law §2855(2) also required the DOE to provide Fahari with “at least thirty days to correct the problems associated with the proposed revocation.”

138. Finally, Education Law §2855(2) required the DOE to provide Fahari with an opportunity to be heard on the proposed non-renewal, consistent with the requirements of due process of law, prior to the issuance of the DOE’s determination.

139. The DOE failed to comply with the procedural requirements of Education Law §2855 prior to issuing the determination of non-renewal of Fahari’s charter.

140. Fahari was never provided with notice of any kind that its charter would not be renewed.

141. The DOE failed to provide Fahari with a statement of the reasons upon which the non-renewal decision was based until the day it was informed by the DOE of its decision, long after the decision had been made.

142. Fahari was denied the statutorily prescribed time period of at least 30 days to correct the problems that formed the basis of the DOE’s decision not to renew Fahari’s charter.

143. Fahari was not given any opportunity to respond to the DOE’s determination of non-renewal prior to the effective date of that determination.

144. Fahari was thereby deprived of the due process hearing mandated by the Charter Schools Act.



145. The DOE's failure to comply with the procedural requirements of Education Law §2855 prior to issuing the nonrenewal determination was violative of lawful procedure and contrary to law. The decision must, therefore, be vacated.

**AS AND FOR A THIRD CAUSE OF ACTION**

146. Petitioner repeats and realleges all of the foregoing allegations set forth above in this Petition as though fully set forth anew herein.

147. The DOE's decision not to renew Fahari's charter, even for a shortened term, was arbitrary and capricious, and an abuse of discretion for all the reasons described above.

148. Moreover, Fahari's successful turnaround is both impressive and undeniable. Beyond the termination of Fahari's probation, Fahari's success is evidence in numerous, meaningful, and significant ways as detailed above and in the supporting affidavits attached hereto.

149. For the foregoing reasons, the DOE's decision not to renew Fahari's charter was arbitrary and capricious and an abuse of discretion and should be vacated.

**AS AND FOR A FOURTH CAUSE OF ACTION**

150. Petitioner repeats and realleges all of the foregoing allegations set forth above in this Petition as though fully set forth anew herein.

151. Education Law § 2590-h(2-a)(a) provides that the Chancellor must "prepare an education impact statement ("EIS") regarding *any* proposed school closing or significant change in school utilization, including the phase-out, grade reconfiguration, re-siting, or co-location of schools, for any public school located within the city district" (emphasis added).

152. Under section 2590-h(2-a)(b), the EIS must contain information regarding:
- “(i) the current and projected pupil enrollment of the affected school, the prospective need for such school building, the ramifications of such school closing or significant change in school utilization upon the community, initial costs and savings resulting from such school closing or significant change in school utilization, the potential disposability of any closed school;
  - (ii) the impacts of the proposed school closing or significant change in school utilization to any affected students;
  - (iii) an outline of any proposed or potential use of the school building for other educational programs or administrative services;
  - (iv) the effect of such school closing or significant change in school utilization on personnel needs, the costs of instruction, administration, transportation, and other support services;
  - (v) the type, age, and physical condition of such school building, maintenance, and energy costs, recent or planned improvements to such school building, and such building’s special features;
  - (vi) the ability of other schools in the affected community district to accommodate pupils following the school closure or significant change in school utilization; and
  - (vii) information regarding such school’s academic performance including whether such school has been identified as a school under registration review or has been identified as a school requiring academic progress, a school in need of improvement, or a school in corrective action or restructuring status.”

153. Education Law § 2950(h)(2-a) also requires the DOE to post the environmental impact statement on its website and disseminate it and conduct a public hearing to consider community concerns about the proposed action.

154. Education Law § 2853(1)(c) specifically provides that a “charter school shall be deemed an independent and autonomous public school, unless otherwise provided in this article.”

155. The Education Law does not otherwise provide that a charter school is to be considered a non-public school for purposes of nonrenewal of its charter and its subsequent closure.

156. DOE’s decision constituted both a proposed school closing and a proposed significant change in school utilization.

157. Therefore, prior to issuing a determination of nonrenewal, the DOE was obligated to comply with the requirements of Education Law § 2590-h(2-a). It failed to do so.

158. The DOE did not comply with any of the procedures mandated by Education Law § 2590-h(2-a).

159. Accordingly, DOE’s failure to comply with the procedural requirements of Education Law § 2590-h(2-a) prior to issuing the non-renewal determination and ordering closure of Fahari was a violation of lawful procedure and affected by an error of law, and its decision should be vacated for that reason.

#### **AS AND FOR A FIFTH CAUSE OF ACTION**

160. Petitioner repeats and realleges all of the foregoing allegations set forth above in this Petition as though fully set forth anew herein.

161. Under the DOE’s articulated renewal standards, Fahari clearly qualifies for at least a short-term renewal.

162. Pursuant to the DOE's renewal report, the DOE purports to look cumulatively and comprehensively at a school's entire track record over the course of its charter term. Specifically, it looks at whether a charter school is (a) academically successful, (b) fiscally viable, and (c) compliant with applicable law and regulations. It also considers a school's plans for its next charter term. In answering these questions, the DOE looks at a school's academic performance and whether it met its self-imposed charter school goals stated within its original charter.

163. In considering Fahari's renewal application, the DOE applied these standards inconsistently with what it had communicated to Fahari in connection with its probation and inconsistently with the way it has treated other charter schools which did not meet their charter goals.

164. The DOE's inconsistent application of standards reflects that in practice, there are no accountable standards guiding the DOE's renewal or nonrenewal decisions.

165. By making a decision that is not based on any ascertainable standard, the DOE deprived Fahari of due process, and its decision should be vacated for that reason.

**WHEREFORE**, Petitioner respectfully requests that this Court issue an Order and Judgment granting the following relief in favor of Petitioner and against Respondents:

(a) Declaring that Education Law §2855 is the section of the Charter School Act applicable to the review of Respondents' denial of Petitioner's application to renew its charter and also that Petitioner is entitled to judicial review of such decision;

(b) Annuling and setting aside Respondents' and then-Chancellor Dennis M. Walcott's decision to deny Petitioner's application for charter renewal for failure to comply with the requirements of New York Education Law §2855;

(c) Annuling and setting aside Respondents' and then-Chancellor Dennis M. Walcott's decision to deny Petitioner's application for charter renewal as arbitrary and capricious and an abuse of discretion;

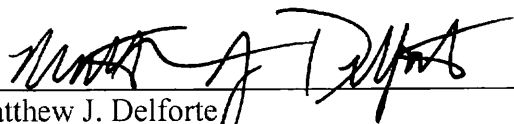
(d) Annuling and setting aside Respondents' and then-Chancellor Dennis M. Walcott's decision not to renew Fahari's charter renewal application and close the school without first preparing an educational impact statement and otherwise complying with the requirements of Education Law §2590-h(2-a)(a);

(e) Annuling and setting aside Respondents' and then-Chancellor Dennis M. Walcott's decision not to renew Fahari's charter renewal application as violative of substantive due process;

(f) Awarding Petitioner the costs, disbursements and attorneys' fees incurred in connection with prosecuting this action and proceeding; and

(g) Granting such other and further relief as this Court deems just and proper.

Dated: New York, New York  
March 12, 2014

  
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Matthew J. Delforte  
Shebitz Berman Coken & Delforte, P.C.  
Attorneys for Petitioner  
1325 Avenue of the Americas, 27<sup>th</sup> Fl.  
New York, NY 10019  
(212) 832-2797

**VERIFICATION**

STATE OF NEW YORK           )  
  )ss.:  
COUNTY OF NEW YORK       )

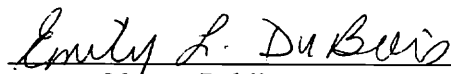
**JASON STARR**, being duly sworn, deposes and says:

1.       I am the Chair of the Board of Trustees of Fahari Academy Charter School, the Petitioner-Plaintiff in this matter.

2.       I have read and know the contents of the within Petition-Complaint and its exhibits. The contents are true to the best of my knowledge, except as to matters stated to be upon information and belief, and as to those matters I believe them to be true.

  
\_\_\_\_\_  
JASON STARR

Sworn to before me this  
March 12, 2014

  
\_\_\_\_\_  
Notary Public

EMILY L. DUBOIS  
NOTARY PUBLIC, STATE OF N.Y.  
NO. 24-5007168  
QUALIFIED IN KINGS COUNTY  
COMM. EXPIRES JANUARY 25, 2015