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DURIS L. HOLMES
Counselor at Law

May 15, 2014

Via Email Only

Scott L. Sternberg, Esq.
Baldwin Haspel Burke & Mayer
1100 Poydras Street, 36th Floor
New Orleans, LA 70163

Re: The Lens' Open Meetings Concerns
Advocates for Academic Excellence in Education, Inc. (Benjamin
Franklin High School)
Board of Directors Meeting, Thursday, May 15, 2014, 4:00 p.m.

Dear Scott:

I researched the issue you raise prior to the previous meeting on April 24, 2014 to satisfy myself that we would be in compliance with the Open Meetings Law by going into executive session.¹ There appears to be no case law or AG opinions addressing the issue. The fundamental problem is one of the chicken or the egg. Whether the union has been recognized or not is irrelevant if the discussion could compromise the Board's bargaining position in future.

As for Morris Jeff, the only other charter school in New Orleans to face a union request, the teachers there had not even "finalized all of their plans – such as whether they'll actually craft an agreement that they'll expect the board to uphold." <http://thelensnola.org/2013/05/17/morris-jeff-charter-school-board-embraces-new-teachers-union/>. Here, we have been presented with a voluntary recognition agreement requiring that collective bargaining begin within fourteen days of verification of the union's majority status and that we specifically address wages, salaries, hours and other conditions of employment.

Furthermore, I did not specify this in the public notice because I was tracking the language of La. Rev. Stat. § 42:6.1(A)(2), but the executive session is only to meet with outside labor counsel and involves privileged communications. The Louisiana Attorney General has

¹ A reporter from *The Lens* was present at the April 24 meeting but did not raise the issue which you now raise.

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recognized that discussions that would be privileged under La. Code. Evid. art. 506 are proper for discussion in executive session pursuant to La. Rev. Stat. § 42:17(A)(10), which allows executive sessions for “any other matters now provided for or as may be provided for by the legislature.” *See* La. Atty. Gen. Op. No. 12-0078.

For these reasons, an executive session is appropriate, particularly given that we will not be taking any action in the executive session and will be leaving executive session to have a full public discussion of the issue before voting. I will, however, pass your letter and this response on to Board members so that they can consider these issues in voting to go into executive session.

Sincerely,

A handwritten signature in black ink, appearing to read "Duris L. Holmes". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Duris L. Holmes

cc: Charles F. Seemann, III, Esq.