

DISTRICT COURT, LARIMER COUNTY, COLORADO Larimer County Justice Center 201 La Porte Avenue, Suite 100 Fort Collins, Colorado 80521 Phone Number: (970) 498-6100	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Plaintiff: Ridgeview Classical Schools, a Colorado nonprofit corporation and charter school Defendant: Poudre School District R-1, a Colorado school district	
ATTORNEY FOR PLAINTIFF Barry K. Arrington, #16,486 ARRINGTON & ASSOCIATES, P.C. 5310 Ward Road, Suite G-07 Arvada, Colorado 80002 Phone Number: (303) 205-7870 FAX Number: (303) 463-0410 E-mail: barry@arringtonpc.com	Case Number:
COMPLAINT FOR DECLARATORY RELIEF	

Ridgeview Classical Schools submits the following complaint for declaratory relief pursuant to C.R.C.P. 57 and C.R.S. §§ 13-51-101 *et seq.*

I. PARTIES

1 Plaintiff Ridgeview Classical Schools (“Ridgeview”) is a Colorado nonprofit corporation and charter school. Its address is 1800 South Lemay, Fort Collins, Colorado 80525.

2 Defendant Poudre School District R-1 (the “District”) is a Colorado school district. Its address is 2407 LaPorte Avenue, Fort Collins, Colorado 80521.

II. JURISDICTION AND VENUE

3 This court has jurisdiction over this action pursuant to the Colorado Uniform Declaratory Judgment Act, C.R.S. §§ 13-51-101 *et seq.*, as both parties are interested in a written contract, as more fully described below, and the parties’ rights and legal relations are affected by a statute or statutes, as more fully described below, and there is a question of validity that has arisen under the contract and the statute.

4 The District's obligation to provide funding to Ridgeview is not part of the "governance" provisions of the contract between the District and Ridgeview. Instead, it is part of the "service contract" provisions of the contract, and as such Ridgeview is entitled to bring this action to seek declaratory relief concerning those sections.

5 Venue is proper in this Court pursuant to C.R.C.P. 98

III. GENERAL ALLEGATIONS

6 In 2000 Ridgeview applied to operate a charter school in the District. The District's Board of Education granted the application, and the parties entered into a charter school contract dated March 12, 2001 with a term that expired on June 30, 2006.

7 In 2006 Ridgeview applied to the District to renew its charter, and the District's Board of Education granted the renewal application on April 10, 2006.

8 Over the next two months the parties negotiated extensively concerning the contract for the renewal term. At the end of these negotiations the parties were unable to agree concerning two issues: (1) whether the District should be allowed to take back a proportionate share of Ridgeview's PPR funding for students who leave the school after the October 1 count; and (2) whether Ridgeview's founders could remain on the school's board of directors if they are also employees of the school after the expiration of their current term.

9 At a June 12, 2006 meeting the District's Board of Education enacted a resolution that stated the District would enter into a contract with Ridgeview only if it contained the two conditions Ridgeview considered unacceptable. As a result of this resolution Ridgeview faced the decision of accepting the conditions, ceasing to operate as a charter school in the District, or appealing the District's unilateral imposition of an unacceptable condition to the State Board of Education.

10 On June 13, 2006 Ridgeview appealed the District's unilateral imposition of an unacceptable condition to the State Board of Education.

11 On September 13, 2006 the State Board of Education held a hearing on Ridgeview's appeal. At that hearing the State Board of Education determined that the District's decision to impose these conditions unilaterally was contrary to the best interests of the pupils, community and the District and remanded the matter for further negotiations between the parties.

12 On October 9, 2006 the District Board of Education again considered Ridgeview's contract. At that meeting the Board voted 4-3 to accept Ridgeview's compromise offer concerning the funding issue. The Board also voted 4-3 to accept Ridgeview's compromise offer concerning the governance issue. But when the contract as a whole came up for a vote the Board voted 4-3 not to accept it.

13 The District Board of Education then voted to remove from the contract the compromise regarding the funding issue it had already approved, and after that provision was removed the board voted to approve the contract as a whole and offer it to Ridgeview.

14 On or about November 7, 2006 representatives of Ridgeview and the District met and executed the contract (the "Charter School Contract"). At the time it executed the contract Ridgeview delivered a letter to the District that, in part, stated:

We have signed the contract under duress in order to ensure the existence of Ridgeview Classical Schools. We are, however, writing to inform you of our decision to seek a declaratory judgment regarding the provision of the "purchased service" in section 5.4 and 6.2.5 of the contract. This is not a "purchased service." That's just a semantic dodge. And even if it were, Ridgeview does not desire to "purchase" this service, and the Charter Schools Act specifically states that a school cannot be required to purchase a service from a district.

15 Paragraph 6.2.5 of the Charter School Contract States:

The cost of educating students who transfer, in accordance with paragraph 5.4 of this Renewal Contract, from Ridgeview to another school in the School District and/or from another school in the School District to Ridgeview after October 1 in any fiscal year this Renewal Contract is in effect shall be accounted for as a purchased service for the education of such transfer students. The purchased service cost of educating each such transfer student shall be calculated by dividing the number of months remaining in the academic year by nine (9), and multiplying that quotient by the PPR funding for such student. In connection with Ridgeview's signing of an addendum to charter school contract as provided in paragraph 7.14 below on or before each June 30 this Renewal Contract is in effect, the parties shall consider and discuss whether the terms of this paragraph 6.2.5 should be amended and, if such amendment is agreed upon, it shall be reflected in the addendum to charter school contract.

16 This provision requires Ridgeview to give up PPR funding to which it is entitled pursuant to law. Accordingly, it is null, void and unenforceable pursuant to C.R.S. § 22-30.5-105(5), which states:

Any term included in a charter contract that would require a charter school to waive or otherwise forego receipt of any amount of operational or capital construction funds provided to the charter school pursuant to the provisions of this article or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable.

17 The funding provision for Colorado charter schools is contained in Section 112 of the statute (i.e., C.R.S. § 22-30.5-112). Subsection 112(2)(a)(III) sets forth the basic funding formula:

each charter school and the chartering school district shall negotiate funding under the contract. The charter school shall receive one hundred percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil . . . except that the chartering school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school, up to five percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school . . .

18 Thus, each charter school is entitled to at least 100% of per pupil revenues ("PPR") less a proportionate share of the district's central administrative overhead (which cannot exceed 5% of PPR).

19 The terms used in the charter school funding formula are specifically defined in Section 112(2)(a.5). The following definitions are especially important:

'District per pupil revenues' means the district's total program as defined in section 22-54-103(6) for any budget year divided by the district's funded pupil count as defined in section 22-54-103(7) for said budget year.

C.R.S. § 22-30.5-112(2)(a.5)(II).

'District's total program' means the funding for a district, as determined pursuant to section 22-54-104 or section 22-54-104.3, whichever is applicable, which represents the financial base of support for public education in that district.

C.R.S. § 22-54-103(6).

20 The term "funded pupil count" means, generally, the "district's pupil enrollment for the applicable budget year." C.R.S. § 22-54-103(7). The term "district pupil enrollment" in turn means generally, "the pupil enrollment of the district, as determined in accordance with subsection (10) of this section."

21 Importantly, C.R.S. § 22-54-103(10) states generally that "**Pupil enrollment' means the number of pupils enrolled on October 1 within the applicable budget year . . .**" (emphasis added). This definition is absolutely critical, because it states that the school funding formula for the entire state – not just for charter schools – is based upon enrollment on October 1. There is absolutely nothing in this definition that allows for a holdback if a student leaves the district after October 1.

22 All of these statutes boil down to the following:

(a) The charter school is entitled to 100% of the district’s “PPR” less its share of central administrative costs multiplied by the number of funded pupils in the school.

(b) “PPR” is the district’s total program as determined pursuant to the School Finance Act divided by the district’s “funded pupil count” as defined in the School Finance Act.

(c) Under the School Finance Act, the district’s funded pupil count is based on its October 1 count.

23 The components of the charter school funding formula are not specific to charter schools. In other words, the charter funding components are **not** based on definitions in the Charter School Act; they are the exact same components under the School Finance Act that are applicable to all public schools in the state. Critically, nothing in the funding formula under the School Finance Act allows for deducting funding for students who transfer after the October 1 count.

24 Thus, nothing in the Charter Schools Funding formula – which is based entirely upon the funding components of the School Finance Act – authorizes a district to withhold funds from a charter school for students that transfer out of the school after the October 1 count. The simple fact of the matter is that the charter school is entitled to funding based on its October 1 count, and any provision of a contract that purports to require the charter school to give part of that funding up is “null and void as against public policy and is unenforceable” under C.R.S. § 22-30.5-105(5).

25 The District argues that it is not asking Ridgeview to give up funding; it is only asking it to pay a cost. If a district were able to circumvent C.R.S. § 22-30.5-105(5) by the simple expedient of calling a reduction in funding a “purchased service” instead of a “reduction in funding” it would render the statute wholly meaningless.

26 Moreover, simply calling the withholding of funds a “cost” does not give the District authority to impose the contractual language on Ridgeview. In fact, just the opposite is true. Section 112(2)(b) of the statute unambiguously states that “[the] charter school, **at its discretion**, may contract with the school district for the direct purchase of district services . . .” C.R.S. § 22-30.5-112(2)(b). If the District wants to call section 6.2.5 a payment for a purchased service, the statute clearly says that Ridgeview – not the District – gets to decide whether to contract for the service at its discretion.

IV. FIRST CLAIM FOR RELIEF (Declaratory Judgment)

27 Ridgeview incorporates the allegations set forth in paragraphs 1 to 26 as if fully set forth herein.

28 Both parties are interested in a written contract (i.e., the Charter School Contract), and their rights and legal relations are affected by a statute or statutes.

29 There is a question of validity that has arisen under the Charter School Contract and the statutes.

30 Ridgeview is entitled to a declaratory judgment pursuant to Colorado Uniform Declaratory Judgment Act, C.R.S. §§ 13-51-101 *et seq.* to determine the issue of the validity of section 6.2.5 of the Charter Schools Contract.

31 Ridgeview requests the Court to enter a judgment declaring that section 6.2.5 of the Charter School Contract is null and void as against public policy and is unenforceable.

WHEREFORE, Ridgeview requests judgment against the District for the declaratory relief described above and for such other and further relief as the Court deems proper.

Submitted this 7th day of November, 2006.

/s/ Barry K. Arrington

Barry K. Arrington