

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA

CATAPULT LEARNING, LLC,

Petitioner,

v.

SBOC RFP No.: 1401017

DOAH Case No.: 14-1641BID

ORANGE COUNTY SCHOOL BOARD,

Respondent,

and

OMBUDSMAN EDUCATIONAL SERVICES,  
LTD.,

Intervenor.

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**FINAL ORDER**

THIS CAUSE came to be heard before the School Board of Orange County, Florida (the "School Board") on July 29, 2014 on the exceptions filed by Catapult Learning, LLC ("Petitioner" or "Catapult") regarding the Recommended Order issued by Administrative Law Judge Lynne Quimby-Pennock ("ALJ") on June 5, 2014. The Recommended Order by Judge Quimby-Pennock recommended that the School Board enter a Final Order "finding that the presentation ranking that found Ombudsman to be the highest ranking bidder was not contrary to the School Board's governing statutes or the School Board's policies or rules, nor was it clearly erroneous, arbitrary, capricious or contrary to competition." After having reviewed the complete record, having heard argument of counsel, and being fully advised in the premises, the School Board issues this Final Order.

**A. PROCEDURES FOR RULING ON EXCPETIONS AND ADOPTING FINAL ORDER**

Following the receipt of Petitioner's Exceptions and the Superintendent's responses thereto, the School Board duly noticed a meeting, which was held on Tuesday, July 29, 2014, to

hear and address the exceptions to the Administrative Law Judge's Recommended Order. All parties were timely served notice of this hearing and received an Agenda. At the hearing on the Exceptions, counsel for the Petitioner and counsel for the Superintendent were entitled to and did make oral presentations to the Board of their arguments and references to the record as to each Exception and Response. An opportunity existed for the members of the School Board to deliberate and discuss before voting.

The School Board did, *en banc*, review and duly consider the Administrative Law Judge's Recommended Order, the Exceptions and Response submitted, and the complete record of this above-styled cause. This review was completed prior to voting on the Exceptions. The School Board had also been advised of the appropriate standards of its review of an Administrative Law Judge's findings of fact and conclusions of law in the Recommended Order, and consulted legal counsel to provide legal advice in the School Board's deliberations and voting on this matter on the Exceptions and adoption of this Final Order.

**B. RULINGS ON EXCEPTIONS**

Each of Petitioner's seven (7) Exceptions to the proposed findings of fact, conclusions of law, and recommendation contained in the Recommended Order is denied.

**C. FINDINGS OF FACT**

The Orange County School Board, Florida, finds that the Findings of Fact in the Recommended Order of the ALJ are supported by competent substantial evidence in the record as a whole and that the proceedings upon which the Findings of Fact were made complied with the essential requirements of law.

Catapult filed Exceptions to certain paragraphs set forth in the Recommended Order of the Administrative Law Judge, pursuant to Section 120.57, Florida Statutes. The School Board rejected Catapult's Exceptions to the Administrative Law Judge's Recommended Order at its hearing held on July 29, 2014.

The School Board hereby adopts the Findings of Fact of the Administrative Law Judge contained within the Recommended Order.

#### **D. CONCLUSIONS OF LAW**

The School Board of Orange County, Florida, has jurisdiction over the subject matter and the parties hereto. The School Board adopts the Conclusions of Law of the Administrative Law Judge in the Recommended Order as prescribed in Section 120.57(1)(1), Florida Statutes, and finds that they are supported by competent substantial evidence in the record. The School Board further finds that the proceedings upon which the adopted Conclusions of Law were based complied with the essential requirements of law.

Catapult filed Exceptions to specified recommended Conclusions of Law in the Recommended Order pursuant to Section 120.57, Florida Statutes. The School Board rejected Catapult's Exceptions to the proposed Conclusions of Law, as set forth in its above stated rulings on the Exceptions, at its July 29, 2014 meeting.

The School Board hereby adopts the Conclusions of Law of the Administrative Law Judge contained within the Recommended Order.

Based on the foregoing, it is therefore **ORDERED AND ADJUDGED** that:

1. THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA hereby adopts and incorporates the Recommended Order of Administrative Law Judge Quimby-Pennock as its Final Order in this matter. A copy of the Recommended Order is attached hereto.
2. The presentation ranking that found Ombudsman to be the highest ranking bidder was not contrary to the School Board's governing statutes or the School Board's policies or rules, nor was it clearly erroneous, arbitrary, capricious or contrary to competition.
3. In accordance with Rule 28-110.005, Florida Administrative Code, and Section 287.042, Florida Statutes, costs and charges are adjudged against Catapult's protest bond.


**DONE AND ORDERED** this 7<sup>th</sup> day of August, 2014.

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA

  
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BARBARA JENKINS, SUPERINTENDENT

  
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BILL SUBLETTE, CHAIRMAN

Filed in the official School Board records with the Clerk of the School Board of Orange County, Florida, this 7<sup>th</sup> day of August, 2014.

  
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DEBORAH MCGILL  
Clerk of the Orange County School Board, Florida

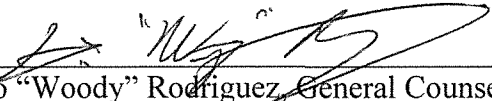
#### **NOTICE OF RIGHT TO APPEAL**

This Final Order constitutes final agency action. Any party who is adversely affected by this Final Order has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, within thirty (30) days from the date this Final Order is filed with the Clerk of the School Board.

#### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 7<sup>th</sup> day of August, 2014, I electronically filed the foregoing document with the Division of Administrative Hearings electronic filing system and sent same via electronic mail to: **Paul S. Figg, Esq.** and **Lauren Weinstein, Esq.**, Berger Singerman, LLP, ([pfigg@bergersingerman.com](mailto:pfigg@bergersingerman.com) and [LWeinstein@bergersingerman.com](mailto:LWeinstein@bergersingerman.com)), 350 E. Las Olas Boulevard, Suite 1000, Fort Lauderdale, FL 33301-4215; **Daniel Thompson, Esq.**, Berger Singerman, LLP, ([dthompson@bergersingerman.com](mailto:dthompson@bergersingerman.com)), 125 South Gadsden Street, Suite 300, Tallahassee, FL 32301-1589; and **Samantha Patrice Smith, Esq.**, **Charles Huddleston, Esq.** and **Marquetta Bryan, Esq.**, Nelson Mullins Riley and Scarborough LLP, ([samantha.smith@nelsonmullins.com](mailto:samantha.smith@nelsonmullins.com); [charles.huddleston@nelsonmullins.com](mailto:charles.huddleston@nelsonmullins.com); and [marquetta.bryan@nelsonmullins.com](mailto:marquetta.bryan@nelsonmullins.com)), 201 17<sup>th</sup> Street Northwest, Suite 1700, Atlanta, GA 30363; **Kimberly Doud, Esq.** and **Robert Alfert, Jr., Esq.**, Broad and Cassel, ([kdoud@broadandcassel.com](mailto:kdoud@broadandcassel.com) and [ralfert@broadandcassel.com](mailto:ralfert@broadandcassel.com)), 390 N. Orange Avenue, Suite 1400, Orlando, FL 32801; and **Amy D. Envall, Esq.**, Orange County Public Schools ([amy.envall@ocps.net](mailto:amy.envall@ocps.net)).

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA

  
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