

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

RICHARD CORCORAN, AS COMMISSIONER  
OF EDUCATION,

Petitioner,

vs.

Case No. 21-1916SP

ACADEMY SCHOOL OF EXCELLENCE  
(8250),

Respondent.

\_\_\_\_\_ /

RECOMMENDED ORDER

This case came before Administrative Law Judge (“ALJ”) Darren A. Schwartz of the Division of Administrative Hearings (“DOAH”) for final hearing by Zoom conference on July 16, 2021.

APPEARANCES

For Petitioner: Jason Douglas Borntreger, Esquire  
Paula Harrigan, Esquire  
Department of Education  
325 West Gaines Street, Suite 1544  
Tallahassee, Florida 32310

For Respondent: Simone Rolle, pro se  
Academy School of Excellence  
2000 East Oakland Park Boulevard, Suite 108  
Fort Lauderdale, Florida 33306

STATEMENT OF THE ISSUE

Whether Petitioner, Richard Corcoran, as Commissioner of Education (“DOE”), properly denied the application of Respondent, Academy School of Excellence (8250) (“Academy”), to participate in the Florida State scholarship programs under chapter 1002, Florida Statutes (2020).

## PRELIMINARY STATEMENT

On January 25, 2021, Academy submitted an application to DOE to participate in the state scholarship programs under chapter 1002. By letter dated March 22, 2021, DOE notified Academy of the denial of its application. Dissatisfied with DOE's decision, Academy timely requested a formal administrative hearing. On June 1, 2021, Academy filed an amended response to DOE's denial letter. On June 16, 2021, DOE referred the matter to DOAH to assign an ALJ to conduct the final hearing. On June 18, 2021, the undersigned entered an Order setting the final hearing for July 16, 2021.

The final hearing was held on July 16, 2021, with all parties present. At the hearing, DOE presented the testimony of Laura Mazyck and Jacqueline Hitchcock. DOE's Exhibits 1 through 14 were received into evidence. Academy presented the testimony of Simone Rolle and Phyllis Mathis. Academy's Exhibits B through D and G through R were received into evidence.

The final hearing Transcript was filed at DOAH on August 17, 2021. DOE timely filed a proposed recommended order on August 27, 2021, which the undersigned considered in the preparation of this Recommended Order. On August 31, 2021, Academy filed a response to DOE's proposed recommended order, which the undersigned has considered as Academy's proposed recommended order. Although Academy's proposed recommended order was filed late, the undersigned has nevertheless considered it in the preparation of this Recommended Order because there is no prejudice to DOE. Unless otherwise stated, all statutory references are to the 2020 version.

## FINDINGS OF FACT

1. DOE is the state governmental entity charged with administering and overseeing the following state scholarship programs pursuant to section 1002.421: (1) the John M. McKay Scholarship for Students with Disabilities Program; (2) the Florida Tax Credit Scholarship Program; (3) the Family Empowerment Scholarship Program; (4) the Hope Scholarship Program; and (5) the Reading Scholarship Program.

2. Edith Robinson Christian Academy (4465) (“Edith Robinson”), is a private school established by Phyllis Mathis in 2009. In May 2010, DAJ Unlimited Inc. (“DAJ Unlimited”), was formed as a not-for-profit Florida corporation to operate Edith Robinson and Ms. Mathis registered Edith Robinson as a fictitious name owned by the corporation.

3. In each of the annual reports filed by DAJ Unlimited with the Florida Secretary of State in 2011 through 2015, Ms. Mathis is identified as president and Ms. Rolle, Ms. Mathis’s goddaughter, as vice president. As officers and directors, both Ms. Rolle and Ms. Mathis had decision-making authority and were, therefore, owners and operators of Edith Robinson.

4. In an administrative complaint dated May 4, 2015, DOE notified Ms. Mathis of the immediate suspension of scholarship payments to Edith Robinson, and revocation of Edith Robinson’s participation in the state scholarship programs, based on the alleged filing of fraudulent fire and health inspection reports, and Edith Robinson’s failure to notify DOE of a change in the school’s physical location and mailing address. DOE also demanded that Edith Robinson return \$469,086.90 in scholarship funds.

5. On July 14, 2015, DOE entered a Final Order finding that Edith Robinson failed to timely file a request for an administrative hearing to contest the allegations and dismissed its request for an administrative hearing, with prejudice. Accordingly, the findings, conclusions, and proposed agency action in the administrative complaint became final and

Edith Robinson was no longer eligible for scholarships. No evidence was presented that Edith Robinson appealed the Final Order.

6. In the meantime, while DOE's administrative complaint against Edith Robinson was pending, Academy was formed as a not-for-profit Florida corporation on June 29, 2015.

7. In the articles of incorporation filed by Academy with the Florida Secretary of State on June 29, 2015, Ms. Rolle is identified as president, and Ms. Mathis as vice president. In each of the annual reports filed by Academy with the Florida Secretary of State from 2016 through 2018, Ms. Rolle is identified as president and Ms. Mathis as vice president.

8. Subsequently, on August 24, 2018, Ms. Mathis resigned as vice president, and therefore, the 2019 annual report filed by Academy with the Florida Secretary of State on April 30, 2019, does not identify Ms. Mathis as vice president. However, in April 2020, Academy's articles of incorporation were amended by Ms. Rolle to add Ms. Mathis as vice president. Accordingly, the 2020 and 2021 annual reports filed by Academy with the Florida Secretary of State on June 7, 2020, and January 28, 2021, respectively, identify Ms. Mathis as vice president. As officers and directors of Academy, both Ms. Mathis and Ms. Rolle have decision-making authority and are therefore owners and operators of Academy.

9. On September 23, 2016, DAJ Unlimited was administratively dissolved by the Florida Secretary of State. However, a new corporation, Edith Robinson Christian Academy, Inc., was established in 2017.

10. Although Edith Robinson no longer receives scholarship monies because of the Final Order, it continues to operate as a private school under the corporate structure of Edith Robinson Christian Academy, Inc. To date, the scholarship monies demanded by DOE have not been repaid.

11. The annual reports submitted by Edith Robinson Christian Academy, Inc., to the Florida Secretary of State for 2018 through 2020, identify Ms. Mathis as president and Ms. Rolle as vice president. Ms. Mathis and

Ms. Rolle continue to be officers and directors of Edith Robinson Christian Academy, Inc., with decision-making authority. Accordingly, Ms. Rolle and Ms. Mathis are owners and operators of Edith Robinson Christian Academy, Inc.

12. In addition, a review of the most recent annual report filed by Academy with the Florida Secretary of State reflects that Academy's mailing address is the same as that of a home owned by Ms. Mathis located at 517 Northwest 16th Avenue, Fort Lauderdale, Florida 33311, and that Ms. Mathis is the registered agent for Academy.

13. Moreover, a review of other annual reports filed by Academy and DAJ Unlimited reflect that over some years, Academy and Edith Robinson occupied space in very close proximity to each other at 4000 North State Road 7, Suites 401-2 and 408, Lauderdale Lakes, Florida 33319.

14. In sum, the credible and persuasive evidence adduced at hearing demonstrates that Ms. Mathis and Ms. Rolle owned and operated Edith Robinson in the State of Florida, in a manner contrary to the health, safety, and welfare of students or the public. Because Edith Robinson was previously barred from state scholarship eligibility due to fraud, health, and safety concerns, and Ms. Mathis and Ms. Rolle, as officers and directors, own and operate both Edith Robinson and Academy, Academy's application to participate in the scholarship programs should be denied.

#### CONCLUSIONS OF LAW

15. DOAH has jurisdiction over the parties and subject matter pursuant to sections 120.569 and 120.57(1), Florida Statutes.

16. In the instant case, Academy has applied for an application to participate in the scholarship programs and challenges DOE's decision to deny the application.

17. Generally, the applicant requesting to participate in the scholarship programs has the burden of proof to demonstrate, by a preponderance of the

evidence, that it satisfies the requirements and is eligible to participate in the programs. *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932, 934 (Fla. 1996). However, in the instant case, DOE does not base its denial on anything having to do with the application itself. Rather, DOE based its decision on specific instances of alleged wrongdoing. Accordingly, the burden in this particular proceeding belongs to DOE to establish, by a preponderance of the evidence, the alleged wrongdoing upon which it relies for its decision to deny the application. *Id.*; *Dep't of Child. & Fam. v. Davis Fam. Day Care Home*, 160 So. 3d 854, 856-57 (Fla. 2015).

18. DOE's denial of Academy's application is based on section 1002.421, which provides, in pertinent part, as follows:

(3) COMMISSIONER OF EDUCATION  
AUTHORITY AND OBLIGATIONS.-The  
Commissioner of Education:

\* \* \*

(b) May deny, suspend, or revoke a private school's participation in a scholarship program if the commissioner determines that an owner or operator of the private school is operating or has operated an educational institution in this state or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public or if the owner or operator has exhibited a previous pattern of failure to comply with this section or specific requirements identified within respective scholarship program laws. For purposes of this subsection, the term "owner or operator" has the same meaning as provided in paragraph (1)(p).

(c)1. In making such a determination, may consider factors that include, but are not limited to, acts or omissions by an owner or operator which led to a previous denial, suspension, or revocation of participation in a state or federal education scholarship program; an owner's or operator's failure to reimburse the department or scholarship-

funding organization for scholarship funds improperly received or retained by a school; the imposition of a prior criminal sanction related to an owner's or operator's management or operation of an educational institution; the imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution; or other types of criminal proceedings in which an owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

\* \* \*

(d) May immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, or welfare of the students;
2. A previous pattern of failure to comply with this section; or
3. Fraudulent activity on the part of the private school.

19. Pursuant to section 1002.421(1)(p), "the term 'owner or operator' means an owner, operator, superintendent, or principal of, or a person with equivalent decision-making authority over, a private school participating in a scholarship program established pursuant to this chapter."

20. Turning to the instant case, DOE proved, by a preponderance of the evidence, that Academy's application to participate in the scholarship programs pursuant to section 1002.421 should be denied. As detailed above, Edith Robinson was a private school participating in the scholarship programs until its participation was revoked for engaging in fraudulent activity and failing to maintain a physical location and mailing address. This

conduct was contrary to the health, safety, or welfare of students or the public.

21. On the precipice of the revocation of Edith Robinson's participation in the scholarship programs, Academy was formed and began operating under the ownership and operation of both Ms. Mathis and Ms. Rolle.

22. Ms. Mathis and Ms. Rolle have been owners and operators of both Edith Robinson and Academy with decision-making authority, and with both schools, at times, sharing common mailing addresses and locations in very close proximity to each other.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Petitioner, Richard Corcoran, as Commissioner of Education, enter a Final Order upholding the denial of the application of Respondent, Academy School of Excellence (8250), to participate in the scholarship programs.

DONE AND ENTERED this 10th day of September, 2021, in Tallahassee, Leon County, Florida.



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DARREN A. SCHWARTZ  
Administrative Law Judge  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 10th day of September, 2021.



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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 10 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.