

June 26, 2018

James Rocco, Esq.  
1515 Market Street, Suite 825  
Philadelphia PA 19102

**Re: Franklin Towne Charter High School**

Dear Mr. Rocco,

I am writing on behalf of Ms. J [REDACTED] and her granddaughter A [REDACTED]. As fully described herein, we allege that A [REDACTED] was illegally denied enrollment at Franklin Towne Charter High School ("FTCHS") based on her disability in violation of federal and state law. Specifically, a charter school cannot refuse to accept a student on the basis of a disability and such action constitutes unlawful discrimination. 20 U.S.C. § 1413(a)(5); 34 C.F.R. § 300.209(b); Section 504, 29 U.S.C. § 794; 34 C.F.R. § 104.4(a), (b). Yet this is precisely what happened in this case. At this juncture, in light of the school's misconduct, Ms. J [REDACTED] requests that FTCHS admit its wrongdoing, correct the policies and practices that continue to persist for the benefit of future applicants, and refund the fees Ms. J [REDACTED] paid in reliance on her granddaughter's acceptance to FTCHS.

As reported to Education Law Center ("ELC"), on or about January 9, 2018 Ms. J [REDACTED] received notification that her granddaughter A [REDACTED] won a placement through the lottery and had been accepted into FTCHS. Ms. J [REDACTED] and A [REDACTED] visited FTCHS and toured the school on or about January 12, 2018. While at FTCHS, the family completed and submitted enrollment paperwork, paid a mandatory \$25.00 activity fee, purchased a uniform for \$27.00 (see attached receipts) and A [REDACTED] received a locker assignment. School staff told A [REDACTED] she would start classes on January 19, 2018.

A [REDACTED] was ecstatic to be enrolled at FTCHS because of its reputation as a great school. Ms. J [REDACTED] was thrilled about this opportunity for her granddaughter, as FTCHS had been highly recommended by community members. A [REDACTED] boasted to her classmates about attending FTCHS. A teacher took A [REDACTED] to a congratulatory lunch and her peers talked about missing her. A [REDACTED] was excited for the chance to exercise more independence as she would take the bus by herself to FTCHS.

Before leaving FTCHS on January 12, Ms. J [REDACTED] provided Ms. McGeehan with a copy of A [REDACTED]'s IEP. Shortly after leaving FTCHS, Ms. McGeehan called Ms. J [REDACTED] and reported that she hadn't been aware how much "special learning" A [REDACTED] needs and said, on second thought, "we don't have space at our school in the special classroom that A [REDACTED] needs." Ms. McGeehan said she would not enroll A [REDACTED] due to her "special learning" needs.

A was devastated to learn that she could not attend FTCHS and Ms. J was frustrated and confused by the school's response. Ms. J scrambled to secure continued schooling for A and luckily was able to ensure she remained at her old school, KIPP Charter. A was deeply embarrassed about being rejected by the great school she had bragged about and her peers taunted her, saying she was a liar and FTCHS didn't want her. A took the rejection by FTCHS very hard and continues to rely on therapy to help her process it and accept it.

On January 16, Ms. J received a letter from Ms. McGeehan stating again that FTCHS is "unable to accept A[sic] into Franklin Towne Charter High School." Incredibly, in addition to the refusal to enroll A, Ms. McGeehan also falsely suggested that Ms. J 'agreed' to FTCHS's refusal to enroll A (see Jan 12 letter attached). Ms. J did not agree to withdraw A's enrollment at all – rather, she was not given a choice: FTCHS refused to serve her grandchild based on her disability. On January 17, Ms. J complained about this treatment to CEO Joe Venditti in an email describing in detail the discrimination she and A faced at the hands of FTCHS staff (see Jan 17 email attached). As she outlines in her January 17 email, Ms. J never received any response to her multiple calls to Ms. McGeehan, and she never received any response from Mr. Venditti, despite her clear description of legal violations.

While Ms. J did not know that FTCHS violated the law until she later contacted ELC and other sources for help, Mr. Venditti and FTCHS staff clearly know -- and are required to know -- FTCHS's responsibilities under the law. As Ms. J described to ELC, enrolling her daughter at FTCHS felt like an important opportunity for her grandchild to learn and thrive in a positive school environment. She thought that perhaps "you almost need to be perfect to be admitted" in FTCHS and the school was allowed to pick and choose from among successful applicants. But the law does not require a child to be perfect for public school enrollment, and students cannot be denied admission in any charter school due to their disabilities.

***Franklin Towne Charter discriminated against Ms. J and A on the basis of A's disability and denied her equal access to an educational benefit in violation of Section 504 of the Rehabilitation Act and State Law***

Under Section 504 of the Rehabilitation Act of 1973 and implementing regulations, "no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance," such as the school district. 34 C.F.R. § 104.4(a). Specifically, students cannot be: (i) denied the opportunity to participate in or benefit from any aid, benefit or service provided to others; (ii) denied an opportunity to participate in or benefit from the aid, benefit or service unequal to that afforded others; (iii) provided an aid, benefit, or service that is not as effective as that provided to others; or (iv) provided different or separate aid, benefits, or services unless necessary for effectiveness. 34 C.F.R. § 104.4(b)(1). To be "equally effective," aids, benefits, and services "must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of



achievement, in the most integrated setting appropriate to the person's needs.” 34 C.F.R. § 104.4(b)(2).

Pennsylvania law mirrors these requirements, providing that: “[a] school district shall provide each protected handicapped student enrolled in the School District, without cost to the student or family, those related aids, services or accommodations which are needed to afford the student equal opportunity to participate in and obtain the benefits of the school program and extracurricular activities without discrimination and to the maximum extent appropriate to the student's abilities.” See 22 Pa. Code § 711.3. Moreover, 22 Pa. Code § 711.7 ensures that “a charter school or cyber charter school may not deny enrollment or otherwise discriminate in its admission policies or practices on the basis of a child’s disability or the child’s need for special education or supplementary aids or services.”

Through their words and actions detailed above, Franklin Towne Charter High School has communicated in no uncertain terms that, because of her disability, A is not welcome at FTCHS. A’s application was accepted, her locker assigned, her fees paid and uniform purchased; she was excited to begin classes. Only after Ms. McGeehan received A’s IEP was there any suggestion that A would be rejected and treated differently from other students. The application completed by Ms. J and accepted by FTCHS did not call for any information relating to a child’s disability or need for special education services. Once the family won the lottery, the school’s enrollment packet, completed by Ms. J when she visited the school, asked a number of questions including whether the enrolling student had ever been suspended or expelled, required medication or had an IEP. Ms. J completed those questions honestly and provided a copy of A’s IEP that identifies her disability as ‘emotional disturbance’ requiring the related service of school-based counseling. Only after reviewing A’s IEP did the school profess she could not attend FTCHS after all. The school’s admission that A’s “special learning” needs would not be accommodated at FTCHS is a clear violation of the law and the school’s after-the-fact assertion that Ms. J agreed to such a violation is grossly offensive.

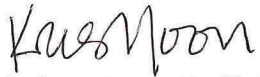
In sum, Franklin Towne Charter High School intentionally discriminated against Ms. J and A and denied her equal access and the opportunity to benefit from her education by refusing to enroll A due to her disabilities.

Ms. J and A are considering legal action but wanted to provide an opportunity for FTCHS to remedy this situation in lieu of litigation. Accordingly, Ms. J demands the following action:

- (a) An acknowledgement of the violation and an apology for discriminating against A and Ms. J;
- (b) A description of efforts FTCHS will undertake to correct the policies and practices that led to this discrimination and similar action against students with disabilities, including, *inter alia*, requiring training for all staff and Board members regarding their obligations under the IDEA, Section 504 and the Pennsylvania School Code; and
- (c) refund to Ms. J the fees she paid in reliance on her granddaughter’s acceptance to FTCHS.

I look forward to your prompt response to this matter.

Sincerely,

A handwritten signature in black ink that reads "Kristina Moon". The signature is written in a cursive, flowing style.

Kristina Moon, Staff Attorney  
Education Law Center  
1315 Walnut Street Suite 400  
Philadelphia, PA 19107  
215-346-6907  
kmoon@elc-pa.org