

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

South Carolina Association of Public Charter Schools d/b/a Public Charter School Alliance of South Carolina; Brashier Middle College Charter High School, Inc.; Greenville Technical Charter High School; Greer Middle College Charter High School; Fox Creek High School, Inc.; Palmetto Scholars Academy; Legion Collegiate Academy; Oceanside Collegiate Academy; Gray Collegiate Academy; Bishop of Charleston, a Corporation Sole, FBO Bishop England High School; Christ Church Episcopal School; St. Joseph's Catholic School; Southside Christian School,

Plaintiffs,

v.

South Carolina High School League,

Defendant.

Case No: \_\_\_\_\_

**SUMMONS  
(JURY TRIAL DEMANDED)**

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the COMPLAINT in this action a copy of which is attached hereto and herewith served upon you, and to serve a copy of your Answer to the Complaint upon the subscriber at 209 E. Washington St., Greenville, South Carolina, 29601, within thirty (30) days after the service thereof, exclusive of the day of such service. If you fail to answer the Complaint within this thirty (30) day period, the Plaintiff or Defendant will apply to the Court for the relief demanded in the Complaint and judgment will be taken against you by default.

IN THE EVENT YOU ARE AN INFANT OVER FOURTEEN YEARS OF AGE OR AN IMPRISONED PERSON, you are further summoned and notified to apply for the appointment of a Guardian ad Litem to represent you in this action within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff herein.

IN THE EVENT YOU ARE AN INFANT UNDER FOURTEEN YEARS OF AGE OR ARE INCOMPETENT OR INSANE, then you and the Guardian or Committee are further summoned and notified to apply for the appointment of a Guardian ad Litem to represent said infant under fourteen years of age or said incompetent or insane person within thirty (30) day after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff herein.

Respectfully submitted,

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May 18, 2020

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

South Carolina Association of Public Charter Schools d/b/a Public Charter School Alliance of South Carolina; Brashier Middle College Charter High School, Inc.; Greenville Technical Charter High School; Greer Middle College Charter High School;; Fox Creek High School, Inc.; Palmetto Scholars Academy; Legion Collegiate Academy; Oceanside Collegiate Academy; Gray Collegiate Academy; Bishop of Charleston, a Corporation Sole, FBO Bishop England High School; Christ Church Episcopal School; St. Joseph’s Catholic School; Southside Christian School,

Plaintiffs,

v.

South Carolina High School League,

Defendant.

Case No: \_\_\_\_\_

**COMPLAINT  
(Jury Trial Demanded)**

Plaintiffs South Carolina Association of Public Charter Schools, Inc. d/b/a the Public Charter School Alliance of South Carolina (“PCSASC”); Brashier Middle College Charter High School, Inc. (“BMC”); Greenville Technical Charter High School (“GTCHS”); Greer Middle College Charter High School (“GMC”); Fox Creek High School, Inc. (“FCHS”); Palmetto Scholars Academy (“PSA”); Legion Collegiate Academy (“LCA”); Oceanside Collegiate Academy (“OCA”); Gray Collegiate Academy (“GCA”); Bishop of Charleston, a Corporation Sole, FBO Bishop England High School (“BEHS”); Christ Church Episcopal School (“CCES”); St. Joseph’s Catholic School (St. Joseph’s); and Southside Christian School (“SCS”) (collectively, the “Plaintiffs,” with all Plaintiffs other than PCSASC being the “Plaintiff Schools”) complaining of Defendant South Carolina High School League (the “League” or the “Defendant”), would

respectfully show unto this Court:

### **PARTIES AND JURISDICTION**

1. Plaintiffs bring this action to establish the illegality of amendments to transfer eligibility rules (the “New Amendments”) recently adopted by the League and pre-existing illegal provisions in the League’s Constitution and By-laws. The result and intent of these illegal provisions is to discriminate against the Plaintiff Schools and against students who wish to attend Plaintiff Schools. This harms the Plaintiff Schools and the students whom they serve, limiting school choice and athletic participation. The New Amendments are not designed to serve educational or valid competitive interests, but instead violate public policy for the purpose of improving the on-field fortunes of the League’s largest and most entrenched members.

2. The PCSASC is a nonprofit corporation organized under the laws of the State of South Carolina. The PCSASC is a 501(c)(3) organization that focuses on transforming public education by advancing the missions of South Carolina’s public charter schools. The PCSASC works to inspire innovative, high quality, public education across South Carolina.

3. BMC is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. BMC is currently sponsored by the South Carolina Public Charter School District pursuant to the South Carolina Charter Schools Act of 1996, as amended (the “Act”). BMC is governed by a Board of Directors consisting of ten volunteer members. BMC is located in Greenville County, South Carolina and currently serves students in grades nine through twelve. BMC’s mission is to provide a supportive, educational environment where each student is expected to seize the opportunity to graduate prepared for college and career. BMC offers its students the opportunity to participate in interscholastic athletics, and BMC is a member in good standing of the League.

4. GTCHS is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. GTCHS is sponsored by the South Carolina Public Charter

School District pursuant to the Act. GTCHS is governed by a Board of Directors consisting of nine volunteer members. GTCHS is located in Greenville County, South Carolina and currently serves students in grades nine through twelve. GTCHS is an award-winning middle college that provides personalized support through mastery learning and offers students the opportunity to take college classes on a college campus. GTCHS's mission is to provide equitable opportunities for all students to acquire an education that prepares them to be productive citizens, lifelong learners, and part of a global workforce utilizing 21<sup>st</sup> century skills. GTCHS offers its students the opportunity to participate in a wide range of extracurricular activities, including interscholastic athletics. GTCHS is a member in good standing of the League.

5. GMC is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. GMC is sponsored by the South Carolina Public Charter School District pursuant to the Act. GMC is located in Greenville County, South Carolina and currently serves students in grades nine through twelve. GMC's mission is to provide equitable opportunities for all students to acquire an education focused on linkages among technology, careers, and rigorous academics to produce graduates who are prepared to enter the global workforce of the 21<sup>st</sup> century. GMC offers its students the opportunity to participate in a wide range of extracurricular activities, including interscholastic athletics. GMC is a member in good standing of the League.

6. FCHS is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. FCHS is sponsored by the South Carolina Public Charter School District, pursuant to the Act. FCHS is governed by a Board of Directors consisting of seven volunteer members. FCHS is located in Edgefield County, South Carolina and currently serves students in grades nine through twelve. FCHS's mission is to graduate students who will have a positive impact on their community. FCHS strives to create an interconnected learning environment that combines a demanding college-preparatory education with the many resources

of the CSRA. This environment includes the government, performing arts, industry, the medical community, and sports. FCHS is a member in good standing of the League.

7. PSA is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. PSA is sponsored by the South Carolina Public Charter School District, pursuant to the Act. PSA is governed by a Board of Directors consisting of nine volunteer members. PSA is located in Charleston County, South Carolina and currently serves students in grades six through twelve. PSA exists to meet the distinctive academic, social, and emotional needs of students by utilizing best practices of gifted education. PSA offers its students the opportunity to participate in a wide range of extracurricular activities, including interscholastic athletics. PSA is a member in good standing of the League.

8. LCA is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. LCA is sponsored by the Charter Institute at Erskine, pursuant to the Act. LCA is governed by a Board of Directors consisting of seven volunteer members. LCA is located in York County, South Carolina and currently serves students in grades nine through twelve in a safe, small, family-centered environment who seek the opportunity and challenge of a rigorous curriculum, high academic standards, and elite athletics while earning up to two years of college credit. LCA offers its students the opportunity to participate in a wide range of extracurricular activities, including interscholastic athletics. LCA is a member in good standing of the League.

9. OCA is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. OCA is sponsored by the Charter Institute at Erskine, pursuant to the Act. OCA is governed by a Board of Directors consisting of nine volunteer members. OCA is located in Charleston County, South Carolina and currently serves students in grades nine through twelve in a safe, small, family-centered environment who seek the opportunity and challenge of a rigorous curriculum, high academic standards, and elite athletics while earning up to two years of

college credit. OCA offers its students the opportunity to participate in a wide range of extracurricular activities, including interscholastic athletics. OCA is a member in good standing of the League.

10. GCA is a public charter school and nonprofit corporation organized under the laws of the State of South Carolina. GCA is sponsored by the Charter Institute at Erskine, pursuant to the Act. GCA is governed by a Board of Directors consisting of seven volunteer members. GCA is located in Lexington County, South Carolina and currently serves students in grades nine through twelve in a safe, small, family-centered environment who seek the opportunity and challenge of a rigorous curriculum, high academic standards, and elite athletics while earning up to two years of college credit. GCA offers its students the opportunity to participate in a wide range of extracurricular activities, including interscholastic athletics. GCA is a member in good standing of the League.

11. BEHS is one of numerous operations and missions of the Roman Catholic Diocese of Charleston, which represents the ecclesiastical presence of the Roman Catholic Church in the State of South Carolina. BEHS is not a separate legal entity but rather is subject to the authority of the Bishop of Charleston and exists solely as part of the Bishop of Charleston, a Corporation Sole, a corporation established in 1880 pursuant to a Charter issued by the South Carolina General Assembly in order to clarify the Roman Catholic Church's civil law rights relating to property, operations and other civil matters. BEHS is located in Berkeley County, South Carolina. BEHS serves students in grades nine to twelve and seeks to bring forth a more caring society by helping to form morally, intellectually, and physically sound young people in a Catholic environment. BEHS is a member in good standing of the League.

12. CCES is a nonprofit corporation and private school in the Episcopal tradition organized under the laws of the State of South Carolina. CCES is governed by a Board of Trustees consisting of nineteen volunteer members. CCES is located in Greenville County, South Carolina,

and serves students in kindergarten through twelfth grade. The mission of CCES is to prepare students to “think deeply, act responsibly, live vigorously, believe faithfully, lead resolutely, and create imaginatively.” CCES is a member in good standing of the League.

13. St. Joseph’s is a nonprofit corporation and private Catholic school organized under the laws of the State of South Carolina. St. Joseph’s is governed by a Board of Trustees consisting of thirteen volunteer members. St. Joseph’s is located in Greenville County, South Carolina, and serves students in grades six through twelve. St. Joseph’s exists to seek academic excellence and strive to form the minds, hearts and souls of its students in the likeness of Christ. St. Joseph’s is a member in good standing of the League.

14. SCS is a nonprofit corporation and private Christian school organized under the laws of the State of South Carolina. SCS is governed by a Board of Directors consisting of seven volunteer members. SCS is located in Greenville County, South Carolina and serves students in Kindergarten through twelfth grade. SCS seeks to serve as partners with Christian parents in providing an excellent education consistent with Biblical truth. SCS is a member in good standing of the League.

15. Defendant South Carolina High School League is a nonprofit corporation organized under the laws of the State of South Carolina. The League has offices located in Columbia, South Carolina, governs interscholastic athletics among member public and private schools across South Carolina, and regularly conducts business all over the state of South Carolina.

16. Jurisdiction and venue are proper in this Court.

## FACTS

### ***I. League Membership and Governance***

17. The League is a voluntary interscholastic athletic association of traditional public schools, public charter schools, and private schools. Twenty-one public charter schools and four private schools are members of the League.

18. The League governs itself and its member schools, including Plaintiff Schools, through its Constitution, By-Laws, and Rules and Regulations, which may be periodically amended subject to the approval of the League Legislative Assembly.

19. The League Legislative Assembly is composed of delegates representing the League membership as determined by classifications within the League. Each classification has one delegate from each region and is permitted one vote for each 1,000, or major part of 1,000, students represented by the classification in that region.

20. In consideration for being admitted as a member of the League, each Plaintiff School was required to pay an initiation fee and “agree[d] to conform to the rules and regulations of the South Carolina High School League” under Article V, Sections 1 and 5 of the League Constitution. Additionally, each Plaintiff is required to pay the League annual dues to remain members of the League pursuant to Article V, Section 5 of the League Constitution.

21. In consideration for such promises and fees paid by member schools, the League provides services to member schools to fulfill the League’s mission, purpose, and beliefs, which are expressly set forth in Articles II, III, and IV of the League’s Constitution.

22. The League’s mission is “to provide governance and leadership for interscholastic athletic programs that promote, support, and enrich the educational experience of students.”

23. The League’s purposes are to “safeguard the educational values of interscholastic athletic competition,” “advance high ideals of sportsmanship,” “develop and direct a program which will promote, protect and conserve the health and physical welfare of all participants,” and “promote uniformity of standards in all interscholastic athletic competition.”

24. The League believes that “interscholastic athletic programs should be student centered,” and “interscholastic athletic programs should enrich each student’s educational experience; promote student academic achievement; promote good citizenship and a healthy lifestyle; foster involvement with a diverse population; promote fair play, honesty, sportsmanship

and equity; promote the participation of students in athletics and multiple sports.”

## **II. *Applicable Law Governing the League***

25. Plaintiff Schools are entitled to the same rights and privileges of participation in the League as traditional public schools under South Carolina law. Fiscal Year 2019-2020 General Appropriations Act, H. 4000, 123rd Gen. Assemb., Reg. Sess., Proviso 1.59(2)(a) (S.C. 2019) (stating that an interscholastic athletics association’s rules must “guarantee[] that private or charter schools are afforded the same rights and privileges that are enjoyed by all other members of the association . . . . A private or charter school may not be . . . restricted in its ability to participate in interscholastic athletics . . . .”); Equal Access to Interscholastic Activities Act (“EAIAA”), S.C. Code Ann. § 59-63-100 (prohibiting an organization such as the League from “prohibit[ing] the participation of charter school students in interscholastic activities”); South Carolina Charter Schools Act, S.C. Code Ann. § 59-40-50(C)(3)(a) (“a charter school is eligible for . . . district-sponsored interscholastic Leagues . . . to the same extent as all other public schools.”).

## **III. *Original Eligibility Under League By-Laws***

26. The League’s By-Laws define the school or schools at which a student establishes his or her “original eligibility” to participate in interscholastic athletics.

27. Pursuant to Article III, Section 9 of the League By-Laws, the school or schools at which a student originally becomes eligible to participate in interscholastic athletics is determined by the school a student attends upon entering seventh grade. Upon entering seventh grade, a student is determined to have original eligibility at the school he or she attends and any high school fed by the school the student attends. For a student to become eligible at any other school at any time in the future, the student is required to establish “transfer eligibility” under Article III, Section 10 of the League’s By-Laws, which has much stricter eligibility requirements.

28. All traditional public high schools in the League are fed by at least one traditional public middle school. Accordingly, under Article III, Section 9 of the League By-Laws, all

traditional public high schools have the right and privilege of having seventh grade students establish original eligibility at their high school.

29. Seven of the public charter Plaintiff Schools (BMC, GTCHS, GMC, FCHS, LCA, OCA, and GCA) currently serve only students in grades 9-12. Accordingly, under Article III, Section 9 of the League By-Laws, these seven Plaintiff Schools do not have the same right and privilege as traditional public high schools of having seventh graders establish original eligibility at their school because these seven Plaintiff Schools do not serve seventh grade students and no middle schools automatically feed their high schools. Additionally, three other public charter schools that are members of Plaintiff PCSASC are members of the League, serve only students in grades 9-12, and also do not have the same right and privilege as traditional public high schools of having seventh graders establish original eligibility at their school.

30. Moreover, any student who desires to establish original eligibility at a traditional public middle school may do so. However, it will be impossible for some students to establish original eligibility at public charter middle schools that offer seventh grade if the demand to attend the school exceeds the space available. Students can apply for admission, but under State law, if demand for enrollment exceeds supply, students are randomly admitted through a public lottery process to public charter schools.

#### **IV. *Illegal Changes to the League's Transfer Eligibility Rules***

31. Article III, Section 10 of the League's Bylaws describes how a student may establish transfer eligibility at a school or schools at which the student has not established original eligibility.

32. Recent Amendments to Article III, Section 10 of the League By-Laws, which address transfer eligibility (collectively the "New Amendments"), have impaired the right and freedom of students who enroll at Plaintiff Schools after the beginning of seventh grade to establish immediate eligibility to participate in interscholastic athletics at Plaintiff Schools, and thus

discriminate improperly against the Plaintiff Schools. These changes are unlawful and cause immediate and irreparable harm to Plaintiffs and to the students whom Plaintiffs were created to educate and serve.

33. The New Amendments have also caused harm to PCSASC, many of the member schools of which are League members, by impairing PCSASC's ability to transform public education by advancing the missions of South Carolina's public charter schools and by impairing the fulfillment of the purpose of charter schools in South Carolina to provide meaningful and innovative educational opportunities to public students outside of their zoned traditional school.

34. As background, private and public charter schools such as Plaintiff Schools typically have smaller student populations than traditional public schools. For example, no Plaintiff Schools are currently members of League Class AAAAA or AAAA, which are made up almost entirely of traditional public high schools. Because Plaintiff Schools do not have the advantages of set attendance zones from which to draw their student populations or state-funded transportation to bring students to their schools, most Plaintiff Schools must draw their student bodies from a larger geographical area than traditional public schools, which is required under State law for public charter schools and critical to fulfill the underlying purpose of public charter schools to provide meaningful school choice to public school students outside of their zoned residence. Drawing students from wider geographic areas is also necessary for financial reasons given that Plaintiff charter schools receive less State funding than traditional public schools and Plaintiff private schools receive no state funding. Nonetheless, Article V, Section 1 of the League Constitution required each Plaintiff School upon joining the League to "clearly define its attendance area ... for athletic eligibility ... as the attendance area ... of the traditional public school ... in which the [Plaintiff] school is located." In other words, upon joining the League each Plaintiff School was required to establish a fictional, arbitrary, geographically-limited attendance zone for student eligibility purposes that does not reflect the Plaintiff school's actual

attendance zone. Further, for those Plaintiff Schools that are public charter schools, this requirement is inconsistent with State law, which mandates that public charter schools admit all children eligible to attend public school regardless of the location of the child's residence. Accordingly, Plaintiff Schools are not given the same right and privilege that traditional public schools are given to use their actual and legal attendance zones for League student eligibility purposes.

35. In addition, some school districts, including many of the school districts in which the Plaintiff Schools are located, permit "open enrollment." In these districts, students may seek to attend any district school that educates their grade level, and if they are approved to attend a school outside their attendance zone, parents are generally expected to assume responsibility for transportation to the school. Many of the largest school districts in the state are open enrollment, thus affording students a choice among traditional public schools. Some districts also permit some form of limited open enrollment, allowing students to attend either the school for which they are zoned or another school within the district, which may have a particular academic focus.

36. Prior to recent amendments to the League By-Laws, under Article III, Section 10(D) of the By-Laws, a student would be fully eligible to play varsity athletics if, before the student's ninth grade year, the student "transfers to a school in the same district where he/she is currently eligible, to a school in the district where he/she is currently ineligible (as it relates to residency), or to a school in the district where his/her family lives." Each Plaintiff School was considered by the League to be in the same district as the traditional public schools surrounding it. As a practical matter, this provision allowed most students the opportunity to choose to attend Plaintiff Schools at the beginning of the ninth grade and be immediately eligible to participate in varsity interscholastic athletics at Plaintiff Schools.

37. Prior to recent amendments to the League By-Laws, Article III, Section 10(M) of the League By-Laws allowed students in the tenth, eleventh, and twelfth grades to be fully eligible

to play varsity athletics if the student “transfers to another school in the same district, to include member charter and private schools located in the district . . . provided the affected superintendents and schools’ principals approve the transfer.” This provision presented problems because it gave full discretion and authority to individuals associated with a student’s former school to determine whether the student would be eligible to participate in interscholastic athletics at the student’s new school. Nonetheless, this provision provided students who chose to attend Plaintiff Schools in tenth, eleventh, or twelfth grade an opportunity to become immediately eligible to participate in varsity interscholastic athletics with the permission of certain individuals.

38. Prior to recent amendments to the League By-Laws, under the introductory paragraph of Article III, Section 10 of the League By-Laws, if a student could not establish transfer eligibility to participate in varsity athletics under Section 10(D) or 10(M), the student could still become eligible to participate in junior varsity athletics at his or her new school.

39. On or about March 11, 2020, the League held its annual convention where the League Legislative Assembly approved several amendments to its Constitution and By-Laws. Among items approved were the New Amendments, which amended Article III, Sections 10, 10(D), and 10(M) of the League By-Laws. The New Amendments intentionally and illegally discriminate against the Plaintiff Schools by restricting the eligibility of students who elect to attend Plaintiff Schools to participate in interscholastic athletics.

40. Article III, Section 10(D) was amended to provide that each Plaintiff School is no longer considered to be in the same district as the traditional public schools surrounding it. Accordingly, a student who might choose to attend a Plaintiff School in ninth grade after attending a traditional public middle school within the same geographic school district is no longer immediately eligible under Section 10(D) to participate in varsity interscholastic athletics unless the student lives in the Plaintiff School’s fictitious, arbitrary, limited, League-assigned attendance zone. However, the same student would be immediately eligible to participate in varsity

interscholastic athletics at any traditional public high school in a school district that offers open enrollment options, regardless of where the student lives. Accordingly, Plaintiff Schools are not afforded the same rights and privileges that are enjoyed by all traditional public school members of the League, and specifically those traditional public high school members in school districts with open enrollment options.

41. Article III, Section 10(M) was amended to delete language that clearly specified that public charter and private schools were considered part of the traditional geographic public school district in which they were located. Accordingly, students who might choose to attend any Plaintiff School at the beginning of tenth, eleventh, or twelfth grade no longer have an option to obtain immediate eligibility to participate in varsity interscholastic athletics under Section 10(M). However, students transferring from one traditional public high school to another traditional public high school in the same district still have the option to obtain immediate eligibility under Section 10(M). Accordingly, Plaintiff Schools are not afforded the same rights and privileges that are enjoyed by all traditional public school members of the League, and specifically those traditional public high school members that are in districts with multiple high schools.

42. The introductory paragraph to Article III Section 10 removed junior varsity eligibility for students at Plaintiff Schools who do not qualify for varsity eligibility under Section 10(D) or 10(M).

43. The net effect of the New Amendments makes many students who might choose to enroll in a Plaintiff School after the beginning of seventh grade ineligible to participate in varsity or junior varsity interscholastic athletics at Plaintiff Schools for a period of one year.

44. The New Amendments therefore impair the right and privilege of Plaintiff Schools to enroll new students who previously attended a traditional public school. Such students will now lack eligibility to participate in interscholastic athletics, while they would often retain eligibility if they chose to attend a different traditional public school in the same district.

45. By prohibiting many students who might enroll at Plaintiffs' schools after the beginning of seventh grade from participating in interscholastic athletics for a year, the League has restricted South Carolina parents and guardians from fully exercising their legal right to school choice by restricting the interscholastic opportunities available to students at Plaintiff Schools. *See* S.C. Children's Code, S.C. Code Ann. § 63-5-30 (recognizing that parents are equally charged with "the education of their minor children"); *Pierce v. Society of the Sisters*, 268 U.S. 510, 534 (recognizing the "liberty of parents and guardians to direct the upbringing and education of children under their control."). These restrictions on school choice and students' eligibility to participate in interscholastic athletics harm Plaintiffs and the students whom they were created to educate and serve.

**V. Damages Suffered by Plaintiffs**

46. As a result of the actions of the Defendant, PCSASC will suffer significant damages including limitations on its ability to serve its central purpose, which is to transform public education by advancing the missions of South Carolina's public charter schools and will further suffer damages throughout the community of charter schools due to the failure to be able to fulfill one of the purposes of charter schools within the State of South Carolina, which is to provide meaningful, innovative school choice to all public school students by allowing students to pursue academic opportunities outside of their zoned school. As a result of Defendant's actions, PCSASC's member charter schools who are also members of the League will suffer loss of students, loss of revenue, and damage to extracurricular programs designed to teach students teamwork, friendship, competition, discipline, work ethic, leadership, respect, sportsmanship, and resiliency. The students of these member charter schools will suffer loss of either athletic opportunities or educational opportunities – depending on which choice the family is required to make as a result of the League's actions. Either choice, though, is an irreparable loss to the student for the overall developmental experience at the school. At this time of worldwide pandemic and

the deep concern regarding student mental health due to the uncertainty, isolation, and anxiety engendered by COVID-19, PCSASC also is acutely aware of the mental health harm to the students of its member schools now facing additional anxiety and uncertainty on being banned for a year of athletic participation. These students and families could have had no reasonable foresight or expectation of such repercussion for simply choosing a public school available to them under State law.

47. As a result of the actions of the Defendant, BMC, GTCHS, GMC, FCHS, PSA, LCA, OCA, and GCA will suffer significant damages including the loss of students who would have otherwise enrolled had these students not been forced by the League to forfeit a year of athletic eligibility as a result of exercising their right to school choice. The loss of students suffered by these schools will cause a loss of federal, state, and other funding. More importantly, these schools and their students will suffer intangible harm based on the loss of relationships with and contributions from each student who would have enrolled or would have been eligible to participate in interscholastic athletics as well as the sense of belonging and community these teams provide as a critical resource for students of public charter schools with no neighborhood base. The reach and impact of these schools' extracurricular programs, which are designed to teach students teamwork, friendship, competition, discipline, work ethic, leadership, respect, sportsmanship, and resiliency will be irreparably harmed by the League's actions. The irreparable harm to these students in the current environment of COVID-19 cannot be overstated. Many sports were cancelled for the current academic year due to the COVID-19 pandemic. This means many rising eighth through twelfth grade students set to enroll in a public charter school in the fall, even within a school choice district, will lose the opportunity to play sports for two seasons, one during the current school year due to the effective closing of schools and cancelling of the sports season due to the devastation of COVID-19, and one next year due to the arbitrary changes to the SCHSL By-laws and immediate implementation of those changes. Even more troubling is the effect on the

mental health of the students at such a fragile time of uncertainty, anxiety, and stress when many families are struggling with the health, psychological, and economic effects of the worldwide pandemic. It is unconscionable to add even more uncertainty, anxiety, and isolation by arbitrarily denying these students of the team(s) and corresponding community by banning their participation. Inability to play for one year is disruptive enough socially and developmentally, and quite likely insurmountable in the pursuit of future endeavors, but two years is prohibitive, and the students' knowledge of this only exacerbates the stress, anxiety, isolation, and uncertainty with which they are already trying to cope.

48. As a result of the actions of the Defendant, BEHS, CCES, St. Joseph's, and SCS will suffer a loss of students who would otherwise have enrolled had these students not been forced to forfeit a year of athletic eligibility. Applications and enrollment are already being impacted by the New Amendments. This loss of students will accordingly mean a loss of tuition dollars, fees, donations, and all the other invaluable and non-monetary contributions that each student and his or her family bring to the school community. BEHS, CCES, St. Joseph's, and SCS cannot know precisely the exact scope of financial losses due to Defendant's actions because many students that may have been interested in applying will now not even make contact with the school.

**FOR A FIRST CAUSE OF ACTION**  
**(Declaratory Judgment – Illegality of the New Amendments)**

49. Plaintiffs re-allege the allegations of Paragraphs 1 through 48 above as if repeated herein verbatim.

50. Plaintiff Schools are members in good standing of the League, and PCSASC has member schools that are members in good standing of the League.

51. The Defendant's Constitution, By-Laws, Rules and Regulations must comport with state laws, including Budget Proviso 1.59, the EAIAA, and the S.C. Charter Schools Act.

52. Plaintiffs are entitled to declaratory relief from this Honorable Court that declares that the New Amendments to Article III, Section 10 of Defendant's By-Laws, individually and

collectively,

- a. violate Budget Proviso 1.59 because, among other things, (i) they give many traditional public high schools the right and privilege to enroll students from other traditional public schools with full eligibility to participate in interscholastic athletics in ninth grade under Section 10(D) and in tenth, eleventh, and twelfth grades under Section 10(M), and Plaintiff Schools do not have the same right and privilege to enroll students from traditional public schools with full eligibility under Section 10(D) and 10(M); and (ii) they disproportionately render many public charter and private school students ineligible to participate in athletics for a full year; and (iii) they restrict the Plaintiff Schools in their ability to participate in athletics;
- b. violate the EAIAA by, among other things, prohibiting the participation of many students who elect or would otherwise elect to attend Plaintiff charter schools in ninth grade and most students who elect or would otherwise elect to attend Plaintiff charter schools in tenth, eleventh, or twelfth grade in League athletics, thereby amounting to a de facto ban on the participation of such students; and/or
- c. restrict and/or violate the right of parents and guardians to choose the school that they believe would best serve their child by restricting the opportunities their child has to participate in interscholastic athletics at Plaintiff Schools.

53. Plaintiffs have the right to have these questions determined by the Court pursuant to S.C. Code Ann. § 15-53-30, Rule 57, SCRCPP, and other legal authority.

**FOR A SECOND CAUSE OF ACTION**  
**(Declaratory Judgment – Illegality of Defendant’s System of Original Eligibility)**

54. Plaintiffs re-allege the allegations of Paragraphs 1 through 53 above as if repeated herein verbatim.

55. Plaintiff Schools are members in good standing of the League.

56. The Defendant's Constitution, By-Laws, Rules and Regulations must comport with state laws, including Budget Proviso 1.59, the EAIAA, and the S.C. Charter Schools Act.

57. Plaintiffs are entitled to declaratory relief from this Honorable Court that declares that the provisions in Defendant's By-Laws concerning original eligibility violate Budget Proviso 1.59 because all traditional public high schools have the right and privilege of seventh graders establishing original eligibility at their high school, but many Plaintiff Schools do not have the right and privilege of seventh graders establishing original eligibility at their high schools.

58. Plaintiffs have the right to have these questions determined by the Court pursuant to S.C. Code Ann. § 15-53-30, Rule 57, SCRCPP, and other legal authority.

**FOR A THIRD CAUSE OF ACTION**  
**(Declaratory Judgment – Illegality of Defendant's System of Assigning Attendance Zones)**

59. Plaintiffs re-allege the allegations of Paragraphs 1 through 58 above as if repeated herein verbatim.

60. Plaintiff Schools are members in good standing of the League.

61. The Defendant's Constitution, By-Laws, Rules and Regulations must comport with state laws, including Budget Proviso 1.59, the EAIAA, and the S.C. Charter Schools Act.

62. Plaintiffs are entitled to declaratory relief from this Honorable Court that declares that the provisions in Defendant's Constitution requiring Plaintiff Schools to establish fictional, limited attendance zones

a. violate Budget Proviso 1.59 because traditional public high schools have the right and privilege of using their actual attendance zones for student eligibility purposes; and/or

b. violate State law because they usurp the authority of South Carolina's

Legislature to define the attendance zones of charter Plaintiff Schools, as the Legislature has done in the South Carolina Charter Schools Act. *See* S.C. Code Ann. § 59-40-50(B)(7) (“A charter school must ... admit all children eligible to attend public school” regardless of the location of the child’s residence).

63. Plaintiffs have the right to have these questions determined by the Court pursuant to S.C. Code Ann. § 15-53-30, Rule. 57, SCRCF, and other legal authority.

**FOR A FOURTH CAUSE OF ACTION**  
**(Declaratory Judgment – Illegality of Defendant’s System of Voting)**

64. Plaintiffs re-allege the allegations of Paragraphs 1 through 63 above as if repeated herein verbatim.

65. Plaintiff Schools are members in good standing of the League.

66. The Defendant’s Constitution, By-Laws, Rules and Regulations must comport with state laws, including Budget Proviso 1.59, the EAIAA, and the S.C. Charter Schools Act.

67. Plaintiffs are entitled to declaratory relief from this Honorable Court that declares that that Defendant’s method of assigning votes to delegates in its Legislative Assembly based on student enrollment and regardless of the number of League sports a school offers or the number of student-athletes that participate in League activities results in unequal voting rights between large and small schools, which disproportionately negatively impacts Plaintiff Schools in violation of Budget Proviso 1.59 as well as other state laws and the state constitution.

68. Plaintiffs have the right to have these questions determined by the Court pursuant to S.C. Code Ann. § 15-53-30, Rule 57, SCRCF, and other legal authority.

**FOR A FIFTH CAUSE OF ACTION**  
**(Breach of Contract with Plaintiff Schools)**

69. Plaintiff Schools re-allege the allegations of Paragraphs 1 through 68 above as if

repeated herein verbatim.

70. Plaintiff Schools' payment of initiation fees and dues and agreement to abide by the League's rules and regulations in exchange for membership in the League and the benefits set forth in the League's Constitution constitutes a valid and binding agreement between Plaintiff Schools and Defendant.

71. Plaintiff Schools have complied with and performed their obligations under their respective agreements with Defendant in good faith.

72. Defendant breached its contracts with Plaintiff Schools by enacting provisions in its Constitution and By-Laws to make many students who might enroll in Plaintiff Schools after the beginning of seventh grade ineligible from participating in interscholastic athletics at Plaintiff Schools for one year.

73. Defendant is in material breach of the contract in the following particulars:

- a. By enacting provisions in its Constitution and By-Laws that disproportionately negatively impact students attending Plaintiff Schools.
- b. By enacting provisions in its Constitution and By-Laws that disincentivize Plaintiff Schools from competing in League activities.
- c. By prohibiting Plaintiff Schools from enjoying the same rights and privileges of traditional public school members of the League.
- d. By usurping state legislation that protects Plaintiff Schools' ability to fully participate in League activities.
- e. By enacting provisions in its Constitution and By-Laws that are inconsistent with the Mission, Purpose, and Beliefs of the League as expressly set forth in the League's Constitution.
- f. By violating the implied covenant of good faith and fair dealing.

74. As a result of the Defendant's breaches of contract, Plaintiff Schools have suffered damages, including but not limited to lost funding from student enrollment, and Plaintiff Schools are entitled to damages in an amount to be determined at trial, costs and attorneys' fees, and other appropriate legal and equitable relief. Additionally, Plaintiff Schools are entitled to injunctive relief to prevent Defendant from denying the statutory and contractual rights of Plaintiff Schools.

**FOR A SIXTH CAUSE OF ACTION**  
**(Equal Protection; Violation of S.C. Constitution)**

75. Plaintiffs re-allege the allegations of Paragraphs 1 through 74 above as if repeated herein verbatim.

76. Defendant is manifestly entwined with state actors in that a majority of its membership is comprised of representatives of public schools, a majority of its governing Executive Committee is comprised of employees of public schools, and a majority of Defendant's revenue comes from public schools.

77. Defendant is so entwined with state actors its actions constitute state action such that Defendant is bound by the Equal Protection Clause and the Due Process Clauses of Article I, Section 3 of the Constitution of South Carolina.

78. By enacting amendments to Article III Section 10 of its By-Laws, Defendant is treating Plaintiffs and Plaintiffs' students differently than traditional public schools and the students enrolled therein.

79. Defendant has no rational basis for treating Plaintiffs and Plaintiffs' students differently than traditional public schools and the students enrolled therein.

80. By treating Plaintiffs and Plaintiffs' students differently than traditional public schools and the students enrolled therein without a rational basis, Defendant has violated the Equal Protection Clause of Article I, Section 3 of the Constitution of South Carolina.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for (1) trial by jury; (2) a declaratory judgment against Defendant affirming the application of certain enumerated laws to Defendant and the Defendant's violation of such laws; (3) judgment against Defendant in an amount of actual, consequential, compensatory, and punitive damages to be determined; (4) an order enjoining Defendant from enforcing provisions in its Constitution and Bylaws, from engaging in any of the unlawful acts forming the Breach of Contract cause of action, and from further violating Plaintiffs' rights; (5) attorneys' fees and the costs of this action; and (6) for such other and further relief as the Court deems just and proper.

Respectfully submitted,

May 18, 2020

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May 18, 2020

Greenville, South Carolina