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SUPREME COURT  
OF GEORGIA  
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IN THE SUPREME COURT OF GEORGIA

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**GWINNETT COUNTY SCHOOL DISTRICT, ET AL.,**

**Appellants,**

v.

**KATHY COX, ET AL.,**

**Appellees.**

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**CASE NO. S10A1773**

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**AMICUS CURIAE BRIEF OF GEORGIA CHAMBER OF COMMERCE**

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Gwinnett County School District, et al.,

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Pursuant to Supreme Court of Georgia Rule 23, Amicus Curiae Georgia Chamber of Commerce (“Georgia Chamber”) files this brief in support of the Appellees and respectfully requests that this Court affirm the trial court’s order.

**I. STATEMENT OF INTEREST OF AMICUS CURIAE**

The Georgia Chamber is the unified voice of the Georgia business community, aggressively advocating the business viewpoint in the shaping of public policy, encouraging ethical business practices and ensuring the state’s future as economically prosperous, educationally competitive and environmentally responsible. The Georgia Chamber's thousands of members range from small businesses to Fortune 500 corporations and employ more than one million Georgians in a diverse range of industries statewide. A central focus of the Georgia Chamber is the advocacy of innovation and improvement in education.

To this end, the Georgia Chamber's Education and Workforce Development Committee's mission statement reads as follows:

An important objective of the Georgia Chamber of Commerce is to team with local businesses, chambers and communities, state officials and other organizations to build the nation's best workforce and ensure employers have the talent they need to stay competitive. We believe strategies that link education and workforce development in a seamless system and the embedding of skills-based learning into academic instruction are vital to that objective.

The Georgia Chamber believes Commission charter schools are a vital component of innovation and improvement in education in Georgia. As explained in greater detail below, the importance of charter schools to innovation and improvement is demonstrated in the federal government's recent grant of \$400 million to the State in the competitive "Race to the Top" program, a grant due in part to the State's demonstrated commitment to charter schools and other programs which hold great promise of reform. The Georgia Chamber is, therefore, vitally interested in the outcome of this case, and it urges that the Court affirm.

## **II. STATEMENT OF THE CASE**

This Court should affirm the trial court's order granting the Appellees' respective motions for summary judgment and motions to dismiss and reject the Appellant school districts' challenges – based on the Constitution of the State of Georgia – to the validity of the Georgia Charter Schools Commission Act, O.C.G.A. § 20-2-2080, et seq. (the "Act"). [R-1398-1427]. The Georgia Chamber

adopts the arguments set forth in the “Consolidated Response of Appellees Ivy Preparatory Academy, Inc. and Charter Conservatory for Liberal Arts & Technology, Inc. to Briefs of Appellants” and the “Response of Heron Bay Academy, Inc. to Brief of Appellants Griffin-Spalding County School District and Henry County School District” and the “Brief of State Appellees.”

**III. ADDITIONAL REASONS TO AFFIRM THE TRIAL COURT’S ORDER.**

**A. Innovative Methods of Education, Such as Commission Charter Schools, Are Essential For Developing and Maintaining An Educated Workforce.**

Ask any CEO who is considering moving a business to Georgia to list the most important factors in making such a decision and without fail the State’s education system will be at the top of the list. Consistent with these business leaders’ criteria, educational improvement and innovation are top priorities for the Georgia Chamber. The ability of this State to compete in a global economy is tied directly to a high-quality education for our students, which creates a qualified, capable workforce.

A qualified and capable workforce is not created instantly. Instead, the seeds of tomorrow’s workforce must be planted now. The next generation of those to fill the boardroom seats as business leaders or serve as productive workers in this State are those students who currently occupy the desks in an elementary

school in Valdosta, experiment in a science lab in a Dalton middle school, or study world history in an Augusta high school.

To ensure that schools in Georgia excel in educating tomorrow's workforce, state leaders recognized that they must adopt and support innovative approaches to education. Charter schools are one such innovation that has been vital to our state. In 1993 and 1998 respectively, the General Assembly enacted laws that authorized public schools to convert to charter schools and that permitted the creation of new schools known as "start-up" charter schools. O.C.G.A. § 20-2-2064(a),(b); O.C.G.A. § 20-2-2062(7). The Georgia Charter Schools Commission ("Charter Commission") is the most recent innovation in Georgia's charter school movement. To continue the growth of charter schools in this state, the Act created a statewide authorizer - the Charter Commission - to approve commission charter schools. O.C.G.A. §§ 20-2-2082(a) (establishing Charter Commission "as a state-level charter school authorizing entity"); 20-2-2085 (stating requirements for commission charter petitions). The Act ensures that commission charter schools are funded in amounts comparable to traditional public schools. O.C.G.A. § 20-2-2090 (establishing method of funding commission charter schools through an appropriation of state and federal funds). By creating a state-level charter school authorizer and fully funding commission charter schools, the General Assembly sought to ensure that charter schools would flourish in Georgia because the

schools' creation would not depend on approval from local school districts, which might be adverse to approving new charter schools.

The General Assembly's policy decision is already demonstrating positive results: In 2009, 85% of charter schools in Georgia achieved "Adequate Yearly Progress" status, and charter schools collectively witnessed an 81% graduation rate (compared to a state average of 79%).<sup>1</sup> According to the Georgia Department of Education, in 2009 "61% of charter schools exceeded the student performance of their two closest schools."<sup>2</sup>

Charter schools are directly accountable for educational achievement. Commission charter schools are accountable to the parents who make the decision to send their children to the school, as well as to the Charter Commission. *See* O.C.G.A. § 20-2-2083(a)(1) (authorizing Charter Commission to "approve or deny petitions for commission charter schools"); § 20-2-2083(b)(3) (Charter Commission shall develop, "promote, and require high standards of accountability for commission charter schools"). If the charter school fails to meet the performance standards stated in its charter, or a majority of parents of students

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<sup>1</sup> Georgia Department of Education's "2008-2009 Annual Report on Georgia's Charter Schools," pp. ii, xi, available at [http://www.doe.k12.ga.us/pea\\_charter.aspx](http://www.doe.k12.ga.us/pea_charter.aspx).

<sup>2</sup> *Id.* at p. ii.

enrolled in the school vote to terminate the charter, the State Board of Education may terminate the charter and close the school. O.C.G.A. § 20-2-2068.

Commission charter schools are the most recent innovation in Georgia's nearly twenty-year experience with charter schools. Based on charter schools' already-demonstrated success, the Georgia Chamber is confident that charter schools in general and commission charter schools in particular are essential improvements to and options for public education in Georgia. To continue to educate and train our business leaders and workforce of tomorrow, and to be able to attract new businesses and industries to this state, it is imperative that Georgia be allowed to adapt innovative approaches to education such as commission charter schools.

**B. Georgia's Commitment to Education Reform Results in \$400 Million in Federal Grant Funding.**

Georgia's commitment to education reform was recently rewarded by the federal government through its "Race to the Top" program. In August 2010, the United States Department of Education awarded Georgia approximately \$400 million in educational grants that will be paid over four years.<sup>3</sup> The Race to the Top grant funding is intended to support "investments in innovative strategies that

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<sup>3</sup> "Georgia Wins Race to the Top," Georgia Department of Education press release, dated August 24, 2010, available at [http://www.doe.k12.ga.us/pea\\_communications.aspx?ViewMode=1&obj=1969](http://www.doe.k12.ga.us/pea_communications.aspx?ViewMode=1&obj=1969).

are most likely to lead to improved results for students, long-term gains in school and school system capacity, and increased productivity and effectiveness.”<sup>4</sup>

Though forty-six states and the District of Columbia applied for Race to the Top funding, Georgia was one of eleven states and the District of Columbia that were awarded grant funding during the two phases of the Race to the Top competition.<sup>5</sup>

Half of the funds awarded to Georgia will be distributed to local school districts<sup>6</sup> to enact various reforms that will be implemented on a statewide basis if they are effective.<sup>7</sup> The other half of the grant money will be used by the Georgia

Department of Education to implement other reforms, improve the state’s data systems, and address low-achieving schools.<sup>8</sup>

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<sup>4</sup> “Race to the Top Program Executive Summary,” United States Department of Education, available at <http://www2.ed.gov/programs/racetothetop/executive-summary.pdf>.

<sup>5</sup> “Nine States and the District of Columbia Win Second Round Race to the Top Grants,” U.S. Department of Education Press Release, August 24, 2010, available at <http://www.ed.gov/news/press-releases/nine-states-and-district-columbia-win-second-round-race-top-grants>.

<sup>6</sup> Three of the Appellant school districts (Gwinnett County School District, DeKalb County School District, and Atlanta Independent School System) are partnering with the State to implement Georgia’s Race to the Top plan. “Georgia Wins Race to the Top,” *supra* note 3.

<sup>7</sup> *Id.*

<sup>8</sup> “Budget Summary Table,” Appendix to State of Georgia Race to the Top application, submitted June 1, 2010, p. 104, available at <http://www2.ed.gov/programs/racetothetop/phase2-applications/appendixes/georgia.pdf>.



Governor Sonny Perdue presented Georgia's Race to the Top application on the State's behalf. The application received support from a broad coalition of education agencies, local school districts, philanthropies, non-profit organizations and businesses; including: the Georgia School Superintendents Association, Parent Teacher Association, Atlanta Independent School System, Gwinnett County School District, the Blank Foundation, the Woodruff Foundation, and Teach for America, the Georgia Chamber, AT&T, General Electric and IBM.<sup>9</sup>

Applicants for Race to the Top funding were required to show that their states raised student achievement and implemented "ambitious plans" in core education reform areas, and were evaluated against nineteen specific criteria, including how they are ensuring "successful conditions for high-performing charter schools and other innovative schools," which required applicants to state, among other things, how they are "increasing the number of high-performing charter schools;" and to describe how charter schools receive "equitable funding compared to traditional public schools."<sup>10</sup>

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<sup>9</sup> "Letters of Support," Appendix to State of Georgia Race to the Top application, submitted June 1, 2010, pp. 225-291, *supra* note 8.

<sup>10</sup> *Id.*

Georgia's charter school laws, including the Act creating commission charter schools, were discussed in the state's Race to the Top application.<sup>11</sup> To demonstrate the state's commitment to charter schools, Georgia stated that charter schools are a "critical component" of the State's efforts to providing educational opportunities and choices for all students.<sup>12</sup> Moreover, Georgia promoted the Charter Commission and the Act as means of ensuring "that charter school applicants have an opportunity to apply to more than one authorizer."<sup>13</sup>

Georgia's award of approximately \$400 million through Race to the Top demonstrates both the progress that the state has made in educational reform and recognition of the state's commitment to improving educational opportunities and achievements for generations of students. The educational reforms that Georgia has already implemented, in combination with the proposed reforms detailed in the state's Race to the Top application, will help in providing students with a first-rate education that equips them with the tools necessary to compete in a global economy. These measures, including the creation of the Charter Commission,

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<sup>11</sup> State of Georgia Race to the Top application, submitted June 1, 2010, pp. 182 - 189, available at <http://www2.ed.gov/programs/racetothetop/phase2-applications/georgia.pdf>.

<sup>12</sup> *Id.* at p. 183.

<sup>13</sup> *Id.* at pp. 183-184.

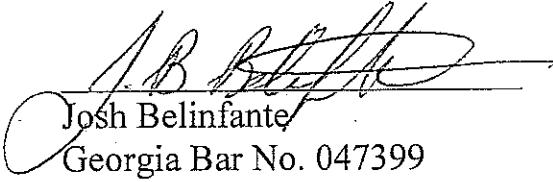
should not be stifled and instead should serve as a model for other states to implement their own reforms.

**IV. CONCLUSION**

Education reform and innovation are core tenets of the Georgia Chamber. Georgia's charter school laws, which promote accountability and choice in education, are central to the reform initiatives that the state has adopted in recent years. As long as educational reform remains effective, and Georgia sets the benchmark for our sister states, our students will be prepared for the challenges that will arise in a global economy over the coming decades. The Georgia Chamber respectfully requests that this Court affirm the trial court's order so the educational engines of innovation may continue to propel our students forward.

{Signatures on the Following Page}

Respectfully submitted, this 16th day of November, 2010.



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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served opposing counsel of the within and foregoing **AMICUS CURIAE BRIEF OF GEORGIA CHAMBER OF COMMERCE** by depositing copy of same in the U.S. Mail with adequate postage affixed and addressed as follows:

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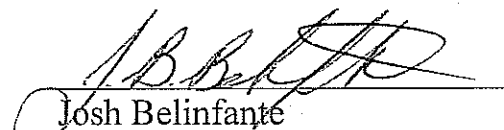
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