



JAN 13 2015

REGISTERED MAIL

MCS Foundation Ltd.
9825-158 Street,
Edmonton Alberta T5P 2X4

BN: 10768 5620RR0001

Attention: [REDACTED]

File #:0727644

**Subject: Notice of Penalty
MCS Foundation Ltd.**

Dear [REDACTED]

We are writing further to our letter dated May 02, 2013 (copy enclosed), in which you were invited to submit representations as to why the Canada Revenue Agency (CRA) should not assess a penalty to MCS Foundation Ltd. (the Organization) in accordance with section 188.1 of the *Income Tax Act*.

We have now reviewed and considered your representative's written response of May 23, 2013. However, notwithstanding your reply, our concerns with respect to the Organization's issuance of official donation receipts for tuition fees have not been alleviated. We are of the opinion that the official donation receipts issued by the Organization are for payments that do not qualify as gifts, and are outside the CRA's exception for payments made to religious schools. The issuance of incorrect receipts is therefore subject to a penalty under subsection 188.1(7) of the Act.

Your submission and our position are discussed below.

Issue 1

Your representation stated that pursuant to subsection 118.1(1) of the *Income Tax Act*, an official donation receipt may be issued to a taxpayer who has provided a registered charity with a gift. It also stated that while payments made to a school with an understanding that said payments will cover the payor's child or children's cost of education are not considered to be gifts, the CRA has allowed a policy exception to this rule found in Information Circular IC 75-23, whereby payments made for religious training are considered to be gifts and therefore may be a charitable donation.

Our position

In order to qualify for a charitable receipt, the taxpayer must make a "gift". The term "gift" is not defined in the *Income Tax Act* but its meaning has been succinctly summarized by the FCA in *The Queen v. Friedberg* (92 DTC 6031) as a "voluntary transfer of property ... for which no benefit or consideration flows to the donor". In *Coleman et al v The Queen* 2010 TCC 109, Justice Miller stated "The benefit to the donor need not arise as a result of meeting a legal obligation. Anticipation of the benefit may be sufficient to deny a gift".

Tuition fees paid to an educational institution are not considered charitable donations and official donation receipts may not be issued for such fees even if they are paid to a registered charity. The purpose of IC 75-23 is to explain two exceptions to that rule, where amounts paid to schools may be considered as a donation. The two types of schools that give rise to these special circumstances are: those that teach exclusively religion and those that operate in a dual capacity, providing both secular and religious education. Furthermore, the schools in question must be privately supported.

The audit revealed that the Organization does not operate as a religious school nor as a school operating in a dual capacity. In fact the audit evidence points to the fact that the Organization is not a school. Rather, it is a foundation whose purpose is to support the alternative Christian Program offered by the public school system. As such, the exceptions allowing certain fees paid to a school to be deductible as charitable donations addressed in IC 75-23 do not apply to the Organization.

Paragraph 3 of the Information Letter that accompanies IC75-23 states "...A payment for tuition, even to a school which is a registered charity, is not a gift because it is not made without such consideration, and therefore would not normally be deductible as a charitable donation.

Issue 2

Your representation stated that the Organization used to operate a private school until 2004 when the Organization entered into an agreement with the Edmonton Public School District No. 7 (EPS) to operate an alternative program within the local public school board. Under that agreement, the local public school board pays for the normal secular costs of education. The Organization exists for the sole purpose of supporting the alternative Christian Education Program. Your representation further argues that the CRA's position to allow official donation receipts only for payments which are made directly to a school attended by the payers' child or children ignores the legal rationale of the policy in IC 75-23 and the case law supporting it.

Our position

The Organization exists to support the alternative program administratively. It issues donation receipts for the additional fees charged by the public school board to cover non-instructional costs. Paragraph 9.2.1 of the agreement between Meadowlark Christian School (MCS) and the Board of Trustees of EPS states that "MCS shall collect fees to cover the extra components of the Christian Community Education (CCE) Program as well as building-related expenses".

The fees paid by the parents who have children attending MCS are set by the Organization. The school fees paid were not amounts given voluntarily by the parents based on their own ability to donate for general use by MCS which will benefit other children attending the school. There was a consideration/benefit received by the donor. The benefit is the education received by the children of the donors. If a charity adopts a program to help pay extraordinary costs incurred by a person or a family, and those costs would otherwise be obligations of the donor, a transfer of property to the charity by that donor and directed to that program would not be a gift.

Our summary policy CSP-G05 states that "A registered charity cannot issue an official donation receipt if a donor has directed the charity to give the funds to a specified person or family. In reality, such a gift is made to the person or family and not to the charity. However, donations subject to a general direction from a donor that the gift be used in a particular program operated by a charity are acceptable, provided that no benefit accrues to the donor and decisions regarding the utilization of the donation rest with the charity." In this case, the payments resulted in a benefit received by the parents since those payments were earmarked to cover the additional fees charged by the Board of EPS in respect of their children.

In *Coleman et al v The Queen* 2010 TCC 109, it was suggested that an enquiry into the connection between the donation and the benefit be made in order to determine the true character of the payment as a gift. To that end, the following factors were considered:

- I. "Is there a relationship between the donor and ultimate beneficiary?"
- II. Is there any correlation between the amount of the donation and the amount received by the beneficiary?
- III. What are the circumstances surrounding the donation:
 - a) What did the donor know or expect would happen to the donation?
 - b) What did the beneficiary know or expect would happen to the donation?
 - c) What did the charity know or expect would happen to the donation?
 - d) What was the donor's intention?
 - e) How was the amount of the donation determined?
 - f) How was the money donated?
 - g) Was the donor under any moral or legal obligation to the beneficiary?
- IV. Did the donor have any control over the charity's use of the money?"

It can be concluded after looking at the above factors and applying them to the case at hand, that a strong link existed between the donation and the benefit. The payments were not a transfer of property without consideration. Rather, they were in respect of an obligation to pay pursuant to an agreement which stipulates that the Organization shall collect fees from parents of children enrolled in the alternative program in order to defray additional costs not covered by the public school board. The Friedberg test stipulating that there can be no benefit flowing to the donor was not met.

In *Woolner v AG (CAN) et al*, judge Sexton J.A. concluded in his judicial review of the decision of Hamlyn: "The taxpayers here argue also that since their children could have been provided a free education in publicly-funded high schools, there was no material benefit. We disagree. These taxpayers desired to have their children schooled in a particular way. Their contributions guaranteed that result. This constituted a material benefit to the taxpayer."

Issue 3

Your representation stated that religious training is not viewed as consideration for purposes of the definition of a gift under IC 75-23. It further stated that IC 75-23 did not specifically contemplate payments made to a non-school that are then used to pay for religious training at an otherwise secular school. You then concluded that if religious training is not consideration when a school provides it, then it would not be consideration when another party provides it in a school. Therefore, as long as the payments are for religious training, they are not consideration, and fit under the CRA's policy in IC 75-23.

Our position

It is CRA's practice not to view religious instruction as consideration under specific circumstances as explained in IC 75-23. In particular, the religious instruction must be given at parochial schools operated by registered charities, with the result that a portion of the payments made by parents for their children's instruction at such schools may be treated as a charitable donation. As discussed earlier, the Organization is not a school, parochial or otherwise. The instruction is being given by the EPS Board.

As per your representation letter dated March 7, 2011, the Organization has entered into an agreement with EPS and exists for the sole purpose of supporting the Christian Education Program primarily through the implementation of the CCE Program at MCS. As a result, the Organization is no longer a school operating in a dual capacity of a private school giving religious and secular instruction. EPS runs the Christian Alternative program.

The regular cost of education per student is covered by EPS. The Organization is required to collect fees charged by EPS to cover the extra cost of running the alternative program. The Organization issues receipts to parents in order to offset the cost of

operating the alternative program. The Organization does not have any students. All students at MCS are students of EPS. All teachers at MCS are employed by EPS. The employees of the Organization are employed in support of the Christian Education component of the program.

Under the agreement, the Organization will continue to own the school buildings and EPS will have the use of the buildings for an agreed upon amount. Under the new arrangement, the Organization is now in an administrative supporting role for the operation of the alternative program within the public school system rather than being a private school operating in a dual capacity providing religious and secular instruction. Therefore the Organization does not fall under the exceptions in the circular.

We disagree with your remarks that IC 75-23 does not contemplate payments made to a non-school. Our Information Letter titled *Treatment of Tuition Fees as Charitable Donations* and which should be read in conjunction with IC 75-23, explicitly states that the CRA is under no obligation under the Circular to treat as a charitable donation any portion of parents' payments made to foundations or other organizations established to provide operating funds to parochial schools.

The term "school" is not defined in the Act, and therefore has the meaning established at common law in the ninth edition of the Black's Law Dictionary as "an institution of learning and education especially for children...When used in statute the "school" usually does not include universities, business colleges or other institution of higher education unless the intent to include institution is clearly defined." According to the constitutional law of Alberta, the word "school" is a place of learning or "instructional" unit.

As stated above, the purpose of IC 75-23 is to explain two exceptions to the rule which prohibits tuition fees from being deductible as charitable donations under the Act. Those exceptions apply to religious instruction given at parochial schools only. The Organization is not a school. It is EPS that runs the alternative program. EPS is not a privately supported parochial school but forms part of the public school system and therefore does not fit under the Circular.

Issue 4

Your representation contends that if religious training is not consideration when a school provides it, then it would not be consideration when another party provides it in a school and concluded that as long as the payments are for religious training, they are not consideration, and fit under the CRA's policy in IC75-23. It pointed out that this position has been supported by the Courts, specifically in the 1997 Tax Court decision of *Woolner v R.*

Our position

In addition to explaining the exceptions to the rule prohibiting tuition fees from being deductible as charitable donations under the *Income Tax Act*, the other purpose of IC75-23 is to assist a taxpayer in gaining whatever advantage may be had under the Act from payments made to privately supported schools that are both secular and religious. It recognizes that receipts may be issued for income tax purposes for a portion of an amount paid to attend schools of this kind and sets forth two methods of calculating the deductible part of the amount paid depending on how the school maintains its accounting records.

Inherent in IC75-23 is the ability of the Charities Directorate to audit a parochial school that is a registered charity to confirm independently, that the proper method was used in arriving at the cost per pupil calculation and that the official donation receipts are issued accordingly. Under the new arrangement between MCS and EPS, the CRA has no way of getting assurance through independent review, that the calculations used by EPS to determine the extra cost per student leading to the issuance of donation receipts by the Organization are correct.

In the case *Woolner v R*, referenced by your representative, the First Mennonite Church, a registered charity had established a student mutual aid program and the taxpayers designated their contributions to that program. The church issued receipts for those contributions. Students who were members or children of members of the Church subsequently received church-sponsored bursaries to attend Rockway Mennonite Collegiate (Rockway), another registered charity. The court held that the contributions made to the First Mennonite Church could not be considered gifts to the extent they reflected payments of tuition for secular education. The balance of the contributions could be treated as charitable donations.

We wish to point out that in the *Woolner* case, the school attended by the recipient of the bursaries, Rockway, must be distinguished from EPS in that Rockway is a parochial school that is registered as a charity and subject to provisions of the Act governing charitable organizations. As a result, the Charities Directorate is in a position to audit the school to confirm the methods used for its calculations such as cost per pupil, and to ensure the correct amounts are reported on the donation receipts.

In contrast, EPS is not a registered charity. According to the agreement between it and the Organization, EPS charges fees to cover the extra components of the Christian education program as well as building-related expenses. The Organization collects the fees from parents of children enrolled in the program and issues donation receipts in respect thereof. The Charities Directorate does not audit public school boards and therefore cannot obtain assurance or confirm through independent means that the amounts reported as charitable donations are accurate

and that EPS's method of calculating the eligible amounts conforms to the policy set in IC 75-23.

Issue 5

Your representation stated that the Organization's sole purpose is to support the Christian Education Program at the School. As a result, the Organization is akin to a religious school, in that it operates solely for the advancement and teaching of religion. All secular school costs are covered by the local school board. Therefore, following the rationale in IC75-23, all payments for students related to the Christian Education Program should be considered as valid donations and official receipts for charitable donations may be issued for these payments.

Our position

As stated earlier, IC 75-23 deals with tuition fees and charitable donations paid to privately supported secular and religious schools. This is specifically stated in the "Subject" field of the Circular. The Organization is no longer a privately supported school. The alternative program is under the governance of EPS and is publicly funded. The arrangements that MCS has with EPS have changed how the Organization operates. The Organization has now assumed an administrative role in the operation of the alternative program of MCS. The fees paid by the parents to the Organization for their children to attend MCS are considered directed donations and are not fees made for exclusively religious studies at a privately supported school. A registered charity cannot issue an official donation receipt if a donor has directed the charity to give the funds to a specified person or family.

Conclusion

Consequently, for each of the reasons mentioned in our letter dated May 02, 2013, we wish to advise you that, pursuant to subsection 188.1(7) of the Act, we propose to assess a penalty to the Organization.

Penalty assessment

The penalty assessed by the Canada Revenue Agency (CRA) is calculated as follows:

	Fiscal Period Ending August 31, 2009	Total Penalties for the audit period
Receipts issued otherwise than in accordance with the Act	\$ 248,887.00	
Penalty applied under subsection 188.1(7) of the Act	5%	5%
Total Penalty owing as per subsection 188.1(7) of the Act	\$ 12,444.35	\$ 12,444.35

In accordance with subsection 189(6.3) of the Act, the penalty may be paid to an eligible donee as defined in subsection 188(1.3). An eligible donee in respect of a particular charity is a **registered charity**:

1. of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;
2. that is not subject to a suspension of tax-receipting privileges;
3. that has no unpaid liabilities under the *Income Tax Act* or the *Excise Tax Act*;
4. that has filed all its information returns; and
5. that is not subject to a security certificate under the *Charities Registration (Security Information) Act*.

The CRA requires the following documentation to confirm that the eligible donee received the penalty payment:

- a letter addressed to the Director, Compliance Division (mail to address below), signed by an authorized representative of the eligible donee, confirming the penalty payment was received and the amount paid; and
- a copy of either the cancelled cheque or evidence of a non-cash transfer.

Should you choose instead to make your payment to the CRA, please make the cheque payable to the Receiver General for Canada and mail it to:

Director
Compliance Division
Charities Directorate
Canada Revenue Agency
320 Queen Street, 7th Floor
Ottawa ON K1A 0L5

Please note that in accordance with subsection 149.1(1.1) of the Act the penalty payment made to an eligible donee shall not be deemed to be an amount expended on charitable activities nor a gift made to a qualified donee.

Failure to pay this penalty amount or make arrangements for payment will result in us reconsidering our decision not to proceed with the issuance of a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

If you have any questions or require further information or clarification regarding the penalty payment, please contact Mr. Alexandre Comtois at 514-292-0047.

Appeal process

Should you wish to appeal this notice of penalty in accordance with subsection 165(1) of the Act, a written notice of objection, which includes the reasons for objection and all relevant facts, must be filed **within 90 days** from the mailing of this letter. The notice of objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
250 Albert Street
Ottawa ON K1A 0L5.

Public notice

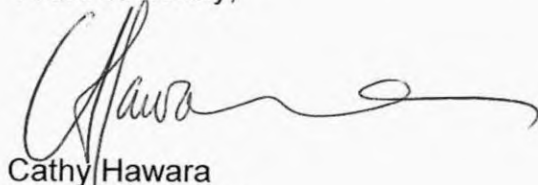
By virtue of paragraph 241(3.2)(g) of the Act, the following information relating to the Organization's penalty assessment will be posted on the Charities Directorate website:

Penalty assessment

Name of Organization:	MCS Foundation Ltd.
Registration Number:	10768 5620RR0001
Effective date of Penalty:	January 13, 2015
Reason for Penalty:	Incorrect information on official donation receipts
Act Reference:	188.1(7)
Amount of Penalty:	\$12,444

We trust the foregoing fully explains our position.

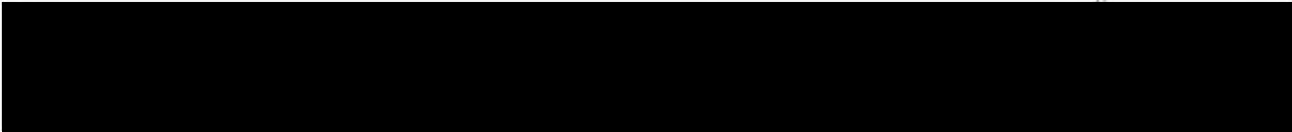
Yours sincerely,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated May 02, 2013
- Organization's response of March 7, 2011
- Response from Organization's lawyer [REDACTED] of May 23, 2013



Place de Ville, Tower A
320 Queen Street, 13th Floor
Ottawa ON K1A 0L5



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

MCS Foundation Ltd.
9825 – 158 Street,
Edmonton, AB T5P 2X4

Attention: [REDACTED]

BN: 107685620RR0001

File #:0727644

May 02, 2013

Subject: Audit of MCS Foundation Ltd.

Dear Sir:

This letter is further to the audit of the books and records of the MCS Foundation Ltd. (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period of 2008-09-01 to 2009-08-31.

During the telephone conversation on January 19, 2011 between yourself and Rong Li (previous Charity auditor), you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issues	References
1.	Official Donation Receipts	Regulation 3501; Paragraph 168(1)(d); IC75-R3; and, Subsection 188.1(7)
2.	Books and Records	Subsection 230(2)
3.	Failure to File an accurate Registered Charity Information Return ("T3010")	Subsection 149.1(14)

As per your representation letter dated March 7, 2011, you had difficulty agreeing with our directive with regards to the calculation of cost per pupil and issuance of official tax donation receipts to the parents of the students in attendance for tuition fees paid.

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. Registered charities must comply with the law, failing which penalties and/or suspensions may be applicable pursuant to sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee". Notice may also be given of our intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

The balance of this letter describes the identified areas of non-compliance and the sanction proposed in further detail.

Identified Areas of Non-Compliance Subject to Penalty:

Technical Grounds for penalty

1. Official Donation Receipts

The practice embodied in Information Circular 75-23 applies to two types of schools: those which teach exclusively religious education and those which operate in a dual capacity offering both secular and religious education. The term "school" for purposes of the Circular does not include a nursery or pre-school program for children who could not be admitted to a regular kindergarten program in the public school system where the parochial school is located, nor does the practice extend to post-secondary educational institutions. The practice is applicable only to payments which are made directly to the school(s) attended by the payor's child or children. The Agency is under no obligation under the Circular to treat as a charitable donation any portion of parents' payments made to foundations or other organizations established to provide operating funds to parochial schools. Furthermore, no part of a parent's payment may be receipted under this practice if the child attends only the periods of secular instruction offered by the school.

The Agency has never accepted the teaching of mathematics, science, history, music, home economics, drama, art or other subjects ordinarily included in the curricula of the public school systems to be religious training, notwithstanding any spiritual or moral aspects such instruction may have. However, where music or religious history are taught as separate subjects and such subjects are in addition to history and music subjects that are ordinarily included in the curricula of the public school systems, the teaching of such religious history and religious music will be considered to be religious training for the purposes of the Circular, as will the teaching of Hebrew by a Jewish school.

The Organization was operating as a private school offering religious education until May 2004, at which time the Organization entered into an agreement with the Edmonton School District No.7 to operate as an alternative program (religious) within the local public school board.

Based on your representation letter dated March 7, 2011, you maintained that the regular cost of education per student is covered by Edmonton School District No.7. You also maintained that the Organization has entered into an agreement with Edmonton Public School (EPS) and exists for the sole purpose of supporting the Christian Education Program primarily through the implementation of the Christian Community Education at Meadowlark Christian School (MCS). As a result, the Organization is no longer a school operating in a dual capacity of a private school, giving religious and secular instruction. Edmonton School District No.7 runs the Christian Alternative program. As a result, all students at MCS are students of Edmonton School District No.7. The Organization does not have any students. All teachers at MCS are employed by Edmonton School District No.7. The employees of the Organization are employed in support of the Christian Education component of the program. MCS will continue to own the school buildings and Edmonton School District No.7 will have the use of the buildings for an agreed upon amount. Under the new arrangement, the Organization is now in an administrative supporting role for the operation of the alternative program within the public school system rather than a private school operating in a dual capacity providing religious and secular instruction.

It is our understanding that the Organization is required to collect fees to cover the extra cost charged by EPS board to cover the extra cost of running the alternative program. The Organization issues receipts to parents in order to offset the cost of operating the alternative program. The Agreement between Edmonton School District No.7 and MCS dated May 2004 and its attachments state the following:

- Item 1.1.1 states: "In accordance with and subject to the terms of this Agreement, the EPS Board shall establish a Kindergarten to Grade Nine program of studies at Meadowlark Christian School located at 9825-158 Street, such program to be called the Community Christian Education (CCE) Alternative Program (the "CCE Program") pursuant to Section 21 of the School Act...the CCE Program will be under the governance of EPS."
- Item 9.2.1 states: "MCS shall collect fees to cover the extra components of the CCE Program as well as building-related expenses."
- Subsection 21(4) of the School Act states: " If a parent enrolls a student in an alternative program, the board may charge that parent fees for the purpose of defraying all or a portion of any non-instructional costs that:
 - (a) may be incurred by the board in offering the alternative program, and
 - (b) are in addition to the costs incurred by the board in providing its regular education program."

Funds directed to the benefit of a person or family:

Under the arrangement, the parents are not considered to be making a voluntary transfer of funds to the Organization to be utilized at the Organization's own discretion. Please refer to our discussion below for the meaning of the term "gift". Rather they are using the Organization as means of paying the tuition fees charged by the public school

board in respect of their children and obtaining charitable donation receipts in return for the payments. Therefore, the amounts shown on the receipts are considered directed donations and don't qualify as gifts since they are made by the parents to the Organization in order to cover the additional tuition charged by school board for their respective children.

Under the Income Tax Act, a registered charity can issue receipts to those who make gifts to support the charitable work it carries on. However, the question of whether a payment made to a registered charity is a gift is not dependent upon the nature of the activities of the organization but, rather, upon the nature of the payment.

The term "gift" is not defined in the Act. Therefore, the meaning has been established at common law - which is a voluntary transfer of property without consideration or expectation of return or compensation. A payment for tuition, even to a school which is a registered charity, is not a gift because it is not made without such consideration, and therefore would not normally be deductible as a charitable donation. However, it has been the CRA's practice not to view religious instruction given at parochial schools as consideration, with the result that a portion of payments made by parents for their children's instruction at such schools may be treated as a gift to a charity.

As mentioned above, MCS is no longer regarded as a dual capacity school providing both religious and secular instruction but it has assumed the administrative role in supporting the alternative program and issuing donation receipts for additional fees to cover non-instructional costs incurred by the school board. As a result, the fees paid by the parents to the Organization for their children to attend MCS are considered directed donations.

IT 110 R3 Paragraph 15(f) prohibits the issuance of an official donation receipt for income tax purposes if the donor has directed the charity to give funds to a specified person or family.

Summary policy, CSP-G05 states that a registered charity cannot issue an official donation receipt if a donor has directed the charity to give the funds to a specified person or family. In reality, such a gift is made to the person or family and not to the charity. However, donations subject to a general direction from a donor that the gift be used in a particular program operated by a charity are acceptable, provided that no benefit accrues to the donor, the directed gift does not benefit any person not dealing at arms' length with the donor, and decisions regarding utilization of the donation within a program rest with the charity.

Penalty Proposed:

188.1 (7) Incorrect information — Except where subsection (8) or (9) applies, every registered charity and registered Canadian amateur athletic association that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable for the taxation year to a penalty equal to 5% of the amount reported on the receipt as

representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

188.1 (8) Increased penalty for subsequent assessment — Except where subsection (9) applies, if the Minister has, less than five years before a particular time, assessed a penalty under subsection (7) or this subsection for a taxation year of a registered charity or registered Canadian amateur athletic association and, after that assessment and in a subsequent taxation year, the charity or association issues, at the particular time, a receipt for a gift otherwise than in accordance with this Act and the regulations, the charity or association is liable for the subsequent taxation year to a penalty equal to 10% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

Penalty Calculation:

Due to the serious nature of the non-compliance issues described above, it is our view that a penalty under 188.1(7) of the Act should be applied to the Organization. Please note that the CRA is proposing the assessment of a penalty in accordance with sections 188.1 and/or 188.2 of the Act in lieu of issuing a Notice of Intention to Revoke.

According to our calculations, the penalty payment would be approximately \$12,444. Please refer to the attached Penalty Worksheet for further details on the penalty calculation.

Other Non-Compliance Issues not Subject to Penalty:

1. Books and Records

Subsection 230(2) of the ITA requires that registered charities and registered Canadian amateur athletic associations keep books and records in order to enable donations that are deductible to be verified. Paragraph 6 of Information Circular, IC 78-10R5, Books and Records Retention/Destruction explains CRA's view that books and records must be:

- sufficient to permit the taxes payable or the taxes or other amounts to be collected, withheld, or deducted by a person to be determined (e.g., non-resident withholding tax, payroll deductions at source);
- sufficient to substantiate the qualification of a registered charity or registered Canadian amateur athletic association for registration under the Act;
- sufficient to permit the verification of all charitable, athletic, and political donations received for which a deduction or tax credit is available; and,
- supported by source documents that verify the information in the books and records.

Paragraph 7 of Information Circular, IC 78-10R5, Books and Records Retention/Destruction states that "a source document includes... general correspondence whether written or in any other form".

The policy of the CRA relating to the maintenance of books and records, and books of account, is based on several judicial determinations, which have been held:

- a registered charity must maintain, and make available to the CRA at the time of the audit, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto (Canadian Committee for the Tel Aviv Foundation v. Canada; The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada, (2004)FCA 397).

During the course of our audit, we requested a copy of the "cost per pupil" calculation to determine if the donation amounts on the official tax donation receipts issued to the parents who paid tuition fees was determined in accordance with IC 75-23, Tuition fees and Charitable Donations paid to Privately Supported Secular and Religious School. However, you were unable to provide the working paper showing the receipted amounts reflecting the portion of tuition fees paid by the parents in excess of the "cost per pupil".

2. Failure to File an Accurate T3010 Registered Charity Information Return

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a Registered Charity Information Return with the applicable schedules.

It is the responsibility of the Charity to ensure that the information that is provided in its Return, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirement to file an Information Return if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Organization improperly completed the information Return for the fiscal period ended August 31, 2009 in that one or many items were incorrectly identified or omitted. Specifically the following item was an error on the return:

FPE August 31, 2009

- The total amount of expenses per T3010 was \$ 430,647. However, the total amount of expenses as per financial statements was \$ 515,093. Line 4950 and Line 5000 were understated by \$ 84, 446. The under-statement was due to omission of the Organization's total direct expense which included Alternative Program Materials and Services expense and, Salaries and Benefits expense.

We have previously provided you with a T1240 – Registered Charity Adjustment Request form to enable you to correct the 2009 T3010 and mail the form to the Charities Directorate.

The Organization's Options:

a) No Response

You may choose not to respond. In that case, the Director General of the Charities Directorate may proceed with the application of penalties and/or suspensions

described in sections 188.1 and/or 188.2 of the Act or give notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

b) Response


Should you choose to make representations regarding this proposal, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

- no compliance action necessary;
- the issuance of an educational letter;
- resolving these issues through the implementation of a Compliance Agreement;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

If you appoint a third party to represent you in this matter, please send us a written authorization naming the individual and explicitly authorizing that individual to discuss your file with us.

If you have any questions or require further information or clarification, please do not hesitate to contact the undersigned at the numbers indicated below.

Yours sincerely



Clara Chin
Audit Division
Edmonton Tax Services Office

Telephone : (780)495-6711
Toll Free : 1-800-267-2384 (Charities)
Facsimile : (780) 495-6908
Address : Suite 10, 9700 Jasper Ave.
Canada Place,
Edmonton, Alberta T5J 4C8



May 2/13



Canada Revenue Agency
Audit Division
Edmonton TSO
9700 Jasper Avenue
Edmonton, AB T5J 4C8

Attention: Rong Li

File: 0727644

March 7, 2011

Subject: Audit of MCS Foundation Ltd.

Dear Ms. Li,

In response to your letter of February 10, 2010 we respectfully submit that we are entitled to receipt for 100% of Christian Program Fees collected towards the provision of the Christian Community Education Program (CCEP) at Meadowlark Christian School for the following reasons.

1. MCS Foundation Ltd. (the Foundation) exists for the sole purpose of supporting Christian Education primarily, although not exclusively, through the implementation of the Christian Community Education Program at Meadowlark Christian School. To this end, the Foundation has entered into an agreement with Edmonton Public Schools (EPS) to partner with them to provide the CCEP to all students who truly desire it. This agreement (attachment 1) exists subject to Section 21 of the Alberta School Act (attachment 2).

As such, the Foundation does not have any students.

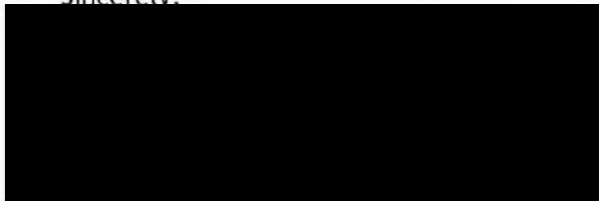
2. The Foundation does not employ any teaching staff. As per our agreement with EPS, all teaching staff at Meadowlark Christian School are employed by EPS. The only staff of the Foundation are employed in support of the Christian Education component of the program.
3. The Alberta School Act clearly states that alternative program fees, in our case Christian Program Fees, "...are in addition to the costs incurred by the board in providing its regular education program." (Alberta School Act Section 21 4.b) Further clarification on this point is offered to Alberta School Districts by the Department of Education Alternative Program Update, June 2010 (attachment 3).



In support of these points the Foundation has drafted a "Christian Program Fees - Receipting Policy" (attachment 4).

Further to correction of the T3010 Information Return, our administrative staff has completed and returned the T1240 form as requested.

Sincerely,



Executive Director, MCS Foundation Ltd.

LEARNING through academics LIVING in Christ
LEADING by serving others LOVING with strength of character



Attachment 1

EDMONTON PUBLIC SCHOOLS

May 2004

TO: Board of Trustees

FROM: [REDACTED] Superintendent of Schools

SUBJECT: Community Christian Education Alternative Program:
Meadowlark Christian School

ORIGINATOR: [REDACTED] Executive Director, Instructional and Curricular
Support Services

RESOURCE
STAFF: [REDACTED]

RECOMMENDATION

1. That the attached agreement between Edmonton Public Schools and Meadowlark Christian School (Appendix I) be approved.
2. That the Community Christian Education (CCE) Alternative Program for offering in the district, beginning in the 2004-2005 school year, be approved.
3. That the attached facilities use agreement between Edmonton Public Schools and Meadowlark Christian School (Appendix II) be approved.

• * * * *

Background: Over the past several months, district administration has been involved in discussions with representatives from the Meadowlark Christian School regarding the possibility of the private school program they operate becoming an alternative program within Edmonton Public Schools. These discussions have resulted in the program agreement and the facility use agreement which are appended to this report. The administration is now recommending that the board approve the offering in the district of the Community Christian Education (CCE) Alternative Program at the Meadowlark Christian School facility beginning in the 2004-2005 school year.

The Meadowlark Christian School program has been operating in Edmonton for 23 years. The school building and adjacent portable classrooms owned by the corporation are located at 9825 - 158 Street. It is an interdenominational school serving all families who choose the school and wish their children to be educated in the evangelical Christian tradition. It currently serves 255 students from kindergarten to grade 9.

Meadowlark Christian School Support for Joining Edmonton Public Schools:

Meadowlark Christian School is a non-profit company incorporated under the Companies Act. The company's board of directors took a leadership role in discussions with the district. In February, the board of directors met with the parent body of the school and received strong support for pursuing alternative program status within Edmonton Public. On April 14, 2004, a parent meeting was held to provide parents with an opportunity to ask questions to both representatives of the board of directors and Edmonton Public and to provide feedback regarding the decision of becoming an alternative program in the district. At this meeting, the parent body gave overwhelming support for the decision to seek alternative program status with Edmonton Public Schools. Based on the support of the board of directors and the general parent body, the company has requested that the administration bring the alternative program proposal forward to the board of trustees.

Context of the Recommendation: The administration's recommendation that Edmonton Public Schools agree to establish the Community Christian Education alternative program is based on the district's belief that public education can and should serve all families in the community, as well as on our long-standing support for program choice. In addition, the district has learned through its Logos alternative program, the Edmonton Christian School alternative program and the Millwoods Christian alternative program that non-denominational Christian education responds to a deeply felt need on the part of many families. Being able to serve the students in the Community Christian Education Program at Meadowlark Christian School would give the district the opportunity to earn the trust of families who have not previously been willing to entrust their children's education to the public system.

Some of the key district parameters reflected in the proposed agreement are:

- The program would be offered under section 21 of the School Act, which enables boards to offer alternative programs based on religion.
- The program meets the requirement of the board's program policy as it relates to religious instruction and alternative programs based on religion, in that it is non-denominational and non-proselytizing. The non-denominational aspect is reflected in the program's long-standing open-admission policy and the fact that, although it is based in the evangelical tradition of Christianity, it is not tied to a specific denomination. The program is non-proselytizing in that it does not teach catechism or doctrine or encourage students to join a particular church or denomination.
- The families currently enrolled in the program at Meadowlark Christian School represent over forty churches, mostly located in west Edmonton.
- The program would be under the governance of Edmonton Public Schools' board of trustees, and all board policies and regulations would apply to the program.
- The program would continue to follow the Alberta Learning curriculum.
- All staff in the schools would be Edmonton Public Schools' staff, and would belong to the Alberta Teachers' Association or the appropriate CUPE local. Staff groups have been kept informed of discussions.
- Admission would be open to all interested families.
- Instructional allocations would be provided on the same basis as to other schools and programs.
- Total cost to the district of offering the program and utilizing the school buildings does not exceed the net amount of grants that would be realized because of having the program in the district.

Key elements for Meadowlark Christian School that are also reflected in the agreement are:

- The program would be based on the Educational Vision Document (Appendix I, Schedule A).
- The district recognizes the important and legitimate role of the Meadowlark Christian School Board of Directors (to be referred to as an-Advisory Council should the program become an alternative program in the district, see Educational Vision Document, Appendix I, Schedule A), in helping ensure that the integrity and intent of the alternative program are maintained.
- Substantive change to the Educational Vision Document could only be initiated by Meadowlark Christian School but would also have to be agreed to by Edmonton Public Schools' board of trustees.
- Meadowlark Christian School Advisory Council would have input when the selection of a principal was required, and the principal would involve them in the processes for staff selection in the school.
- Current teaching and support staff would be considered for positions with Edmonton Public Schools. Custodial staff would be hired through the district.
- Section 21 of the School Act permits the collection of fees related to non-instructional components of alternative programs that are over and above the cost of regular programs.
- Meadowlark Christian School would collect fees related to supporting the Christian education components of the program and the buildings. In the initial period, Meadowlark Christian School would also collect a 'transition fee' to help cover costs associated with building upgrades, becoming part of the district's wide area network, and similar transitional items.
- Proposed fees for 2004-2005 would average \$1.100, which is just under half of current fees. The Company also provides assistance with fees for needy families. The proposed fees and their breakdown are detailed in Appendix III.

Building: Meadowlark Christian School would retain responsibility for the capital needs of their building. In this way, the school building would not compete for capital funds with district-owned buildings. In recognition of Meadowlark Christian School's responsibility in this regard, a facilities use payment has been identified in the agreement. The amount is not market driven but rather related to net grants received by the district. Meadowlark Christian School has agreed to give the district's maintenance department the opportunity to bid on tendered maintenance work in the buildings.

The facilities use agreement is attached in Appendix II. Staff from Facilities Services have conducted an inspection of the buildings and report that they are comparable in condition to district facilities of the same age.

GC/JB:gc

APPENDIX I:	Proposed Program Agreement between Edmonton Public School Board and Meadowlark Christian School
APPENDIX II:	Proposed Facilities Use Agreement
APPENDIX III:	Proposed Fee Structure 2004-2005

THIS AGREEMENT made as of the _____ day of _____, 2004

BETWEEN:

THE BOARD OF TRUSTEES OF EDMONTON SCHOOL DISTRICT NO. 7
("EPS")

AND

MEADOWLARK CHRISTIAN SCHOOL
("MCS")

WHEREAS:

1. MCSI recognizes and supports the commitment of EPS in providing a system of public education that offers a wide range of educational opportunities for all students with the involvement of parents and the community; and
2. EPS recognizes and supports the commitment of MCS in providing a program of studies to students whose parents desire an educational setting which operates in accordance with the Educational Vision of the Community Christian Education (CCE) Program at Meadowlark Christian School.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. MCSI Program

1.1 Creation

1.1.1 In accordance with and subject to the terms of this Agreement, the EPS Board shall establish a Kindergarten to Grade Nine program of studies at Meadowlark Christian School located at 9825 – 158 Street, such program to be called the Community Christian Education (CCE) Alternative Program (the "CCE Program") pursuant to Section 21 of the School Act. EPS will provide a program of studies in an educational setting which operates in accordance with the Educational Vision of the CCE program at Meadowlark Christian School (the "Educational Vision Document") attached hereto as Schedule "A". The CCE Program will be under the governance of EPS. All EPS Board policies apply to the CCE Program.

1.1.2 The Principal will work with the Meadowlark Christian School Board of Directors (heretofore called the Advisory

Council) of Meadowlark Christian School to implement and maintain the Educational Vision document.

1.2 Open Admission

1.2.1 Subject to Section 1.3.1, 1.4.1 and 1.5.1, admission to the MCSI program will be consistent with EPS regulations on student accommodation, and accessible to all children.

1.3 Parental Commitment

1.3.1. While it is not an admission requirement that students or their families be of the Evangelical Christian faith, ~~but~~ parents who seek enrolment for their child will be asked to sign an agreement indicating their support for the Educational Vision document.

1.4 Over-Subscription

1.4.1 In accordance with the School Act, non-residents of EPS are welcome in the MCSI Program. If the MCSI Program is over-subscribed, current students and their siblings will have first priority, with remaining places being filled by random selection, with first priority to resident students of EPS. 1.5

General Provisions Relating to Employment of MCS Staff

2.1 Offer by EPS

2.1.1 Subject to Articles 3 and 4, and to further review by Personnel Services of EPS, EPS shall offer to employ each of the persons who are staff members of MCS as at June 30, 2004 (the "MCS Staff").

2.2 Acceptance

2.2.1 Those members of the MCS Staff who accept employment with EPS shall be identified on a list which shall be appended to this Agreement as Schedule "B".

2.3 Liability

- 2.3.1 EPS shall not be liable for any payment whatsoever to any MCS Staff who do not accept employment with EPS, and MCS shall be liable for and indemnify EPS in respect of any claim against EPS by any such MCS Staff.

2.4 Unions

- 2.4.1 In the event that any union or local of a union not certified as a bargaining in respect of EPS employees as at August 31, 2004 initiates action under the Labour Relations Code for a determination as to whether or not such union or local is the certified bargaining agent of any MCS Staff employed by EPS on or following September 1, 2004, MCS shall be liable to and indemnify EPS in agent respect of any costs, damages, expenses and solicitor's fees incurred by EPS in relation to such action.

2.5 Surplus MCS Staff

- 2.5.1 If, because of declining enrolment or inadequate funds in year 1, the services of any member of MCS Staff are no longer required by EPS in the CCE Program, EPS shall transfer such MCS Staff to another position with EPS if permitted under any applicable collective agreement and the MCS Staff member is, in the sole opinion of EPS, suitable for such other position. If EPS does not effect such a transfer, EPS shall terminate the employment of such MCS Staff member.

2.6 Indemnity

- 2.6.1 MCS shall indemnify EPS for:

- 2.6.1.1 the full cost to EPS of all pension transfer payments, severance pay, termination pay, retirement allowances, and resignation incentives paid or payable by EPS to, on behalf of, or in relation to MCS Staff on or before January 1, 2006, such costs to be consistent with EPS' then-current policies and practices;
- 2.6.1.2 the full amount paid or payable by EPS in respect of any claims, action, proceedings, damages and costs (including solicitor's fees on a solicitor-client basis) which may arise or be incurred by EPS as a consequence or in relation to the suspension, termination or severance of employment of any MCS Staff arising from matters, incidents or behaviours which occurred

within the school or as a result of student/teacher/staff relationships which occurred prior to September 1, 2004.

(i) 3 Employment of MCS Teachers

3.1 Offer of Contract

3.1.1 Subject to section 3.3.1, EPS will offer for the 2004-2005 school year,

- a) Probationary teaching contracts to staff in positions requiring teacher certification,
- b) a designation as principal for a two-year probationary period to the current principal.

MCS will upon execution of this Agreement, identify and communicate to EPS the names of any teaching staff MCS does not wish retained by EPS.

3.2 Union Membership

3.2.1 All teaching staff will be required to become members of the ATA and subject to the terms and conditions of the teachers' collective agreement.

3.3 Enrolment Shortfall and Extra Funding

3.3.1 Should numbers not warrant all teachers receiving contracts for September 2004, the principal would be asked to recommend those to be hired. Evaluation for a continuing contract for 2005 – 2006 would be co-ordinated by EPS personnel services and would occur throughout the 2005 – 2006 school year.

3.4 Grid Placement

3.4.1 Grid placement will be established for each teacher once he or she has submitted an evaluation of years of teacher education by Teacher Qualifications Service (TQS) of the Alberta Teachers' Association and verification of previous eligible teaching experience, including that at MCS.

3.5 Seniority

- 3.5.1 Teaching experience will be recognized only for grid placement and not for district seniority purposes.

3.6 Support of CCE Program

- 3.6.1 The principal and teachers in the CCE Program shall support the Educational Vision Document and demonstrate a continuing commitment to implement and carry out the goals and strategies of the Educational Vision Document.

3.7 New Appointments

- 3.7.1 When the appointment of a new principal is necessary, the MCS Advisory Council will have input into the selection by suggesting criteria, recommending candidates for consideration and participating in interviews. The superintendent is responsible for principal recommendations.
- 3.7.2 All current and future teaching and administrative staff in the CCE Program shall support the Educational Vision Document and demonstrate a continuing commitment to implement and carry out the goals and strategies of the Educational Vision Document. An indication of this support will be a prerequisite for being considered for employment at the school.
- 3.7.3 Vacancies will be advertised first in EPS. EPS staff applying will receive first consideration. New hiring will only occur if there are no suitable candidates currently on staff of EPS and applications will only be considered from those acceptable to the personnel department of EPS. The principal will involve the MCS Advisory Council in the process of selecting staff to fill vacancies at the school by involving the MCS Advisory Council in interviews. The principal is responsible for staffing the school and makes the final decision.

(ii) 4 Employment of MCS Support and Custodial Staff

4.1 Offer of Contract

- 4.1.1 Current support staff of the School will be offered positions with a three-month probationary period.

4.2 Union Membership

- 4.2.1 All support staff will be required to pay union dues to CUPE Local 3550 and be subject to the terms and conditions of the support staff collective agreement.

4.3 Seniority

- 4.3.1 Previous experience of support staff will be recognized only for grid placement and not for seniority purposes under the collective agreement.

5 General Provisions Relating to Support and Custodial Staff

5.1 New Appointment

- 5.1.1 The principal is responsible for staffing the school. He/she will involve the MCS Advisory Council in the process of selecting staff to fill vacancies at the school. Current district staff who apply on advertised positions will receive first consideration. New hiring will only occur if there are no suitable candidates currently on the staff of EPS, and applications will only be considered from those acceptable to the personnel department of EPS.

- 5.1.2 Support and custodial staff shall support the Educational Vision Document.

6 Buildings

6.1 Facility Use Agreement

- 6.1.1 Meadowlark Christian School will continue to own the school buildings and EPS will have use of the buildings for an agreed upon amount based on a formula that is agreed upon. The MCS Advisory Council will give EPS's district maintenance staff an opportunity to bid on tendered maintenance work at the school. Details will be specified in a Facility Use Agreement.

7 School Council

7.1 Election

7.1.1 Upon implementation of this Agreement, the CCE Program shall provide parents and the school community with the opportunity to establish a School Council.

8 **CCE Program Quality**

8.1 Recognition

8.1.1 The important and legitimate role of the MCS Advisory Council in helping ensure that the integrity and intent of the CCE Program are maintained is recognized and supported by EPS.

8.2 Amendment

8.2.1 EPS will not attempt to change the essential nature of the CCEI Program as set out in the agreed upon Educational Vision Document. If change is desired, it must be initiated by the MCS Advisory Council. If the change involves material alteration to the fundamental principles of the CCE Program, such change requires the mutual consent between the two parties.

8.3 Monitoring

8.3.1 EPS and the MCS Advisory Council have jointly developed a CCE Program monitoring plan (Schedule C) so both can be assured that the CCE Program is meeting its Educational Vision Document.

9 **Funding**

9.1 Allocation

9.1.1 Instructional funds will be allocated to the CCE Program on the same basis as for other district schools and programs.

9.2 Fees

9.2.1 MCS shall collect fees to cover the extra components of the CCE Program as well as building-related expenses.

10 **Transportation**

10.1 Parental Responsibility

10.1.1 The Community Christian Education Alternative program at Meadowlark Christian School will be included in the alternative transportation network. As well, students are eligible for a subsidized Edmonton Transit pass so long as this remains a policy of EPS :

11 Term, Termination, and Amendment

11.1 Effective Date

11.1.1 This Agreement shall be effective from the date hereof and will remain in effect from year to year unless terminated in accordance with this section.

11.2 Termination by Mutual Consent

11.2.1 This Agreement may be terminated at any time by mutual consent.

11.3 Termination by Notice

11.3.1 Either party may terminate this Agreement upon 365 days' written notice, provided that:

- a) such notice is effective on June 30 of the next following school year;
- b) the parties have utilized the process outlined in section 12.8.1.

11.3.2 In the event of termination, EPS will assist MCS where possible, to facilitate the transition to "private" school status.


(iii) 12 General

12.1 Notices

12.1.1 Any notices to be given hereunder shall be in writing to the other party and shall be delivered personally or by prepaid registered mail, telex, telegram or facsimile and in any case it shall be deemed to be given only when received. The address of the parties hereto shall respectively be:


12.1.1.1 To MCSI to the attention of:

Chairperson of the Board of Directors
Meadowlark Christian School
Incorporated



12.1.1.2 To EPS to the attention of:

Superintendent of Schools
Edmonton School District No. 7
Centre for Education



12.2 Entire Agreement

12.2.1 There are no representations, warranties, agreements or understandings between the parties hereto other than as expressly contained herein, and this Agreement contains all the terms and conditions agreed on by the parties hereto.

12.3 Waiver

12.3.1 A waiver of any breach of a provision hereof shall not be binding upon a party unless the waiver is in writing and the waiver shall not affect such party's right with respect to any other or future breach.

12.4 Time of the Essence

12.4.1 Time shall be of the essence of this Agreement

12.5 Applicable Law

12.5.1 This Agreement shall be construed and the relations between the parties determined in accordance with the laws of Alberta, and the courts of the Province of Alberta shall be exclusive jurisdiction with respect to all matters relating to or arising out of this Agreement.

12.6 Modification

12.6.1 No waiver or modification of any of the terms of this Agreement shall be valid unless in writing and signed by both parties.

12.7 Enurement

12.7.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

12.8 Dispute Resolution

12.8.1 The parties will make reasonable attempts to resolve any disagreements relating to this Agreement by way of open dialogue and, if agreed, by engaging a mediator to facilitate such dialogue.

IN WITNESS WHEREOF the parties hereto have executed these presents on the day and year first above written.

THE BOARD OF TRUSTEES OF EDMONTON SCHOOL
DISTRICT NO. 7

Per: _____

MEADOWLARK CHRISTIAN SCHOOL

Per: _____

Educational Vision Document

Mission Statement

*To be a caring community committed
to developing excellence in:*

- Learning through academics
- Living in Christ
- Leading by serving others
- Loving with strength of character

1. Community Christian Education (CCE) Program

The Community Christian Education Program is an alternative program for children Grades K - 9. Founded on the Christian worldview, love your God, and love your neighbour as yourself, this program seeks to teach students how to live their Christian faith in the context of their local and broader community.

The program is designed to nurture excellent character, leadership, academic and spiritual outcomes in students through the use of faith-based strategies, value-rich role modeling by staff, and parent partnership. Students are encouraged to actively demonstrate these outcomes through leadership opportunities in their school, community service options in their neighbourhood and extra curricular involvement.

2. Community Christian Education Program Mission

To be a caring community committed to developing excellence in:

2.1. Learning - through academics

2.1.1. Students will be encouraged to realize their full academic potential as an individual uniquely created by God.

2.1.2. All students will be encouraged to develop creative and critical thinking through the proper use of Biblical criteria for evaluation.

2.2. Living - in Christ

2.2.1. Students will experience the invitation to accept Christ as Saviour and to live for Him.

2.2.2. Students will be encouraged to make informed Christian choices based on Biblical criteria.

2.2.3. Students will learn a Christian view of life, work, personal relationships, family and marriage.

2.2.4. Staff will demonstrate Christian values in the classroom by living with integrity.

2.3. Leading - by serving others

2.3.1. Students will be challenged to become leaders at school and in the community. They will be involved with various service projects to help them gain an understanding of what it means to be a contributing member of society realizing the dependence we have on one another.

- 2.3.2. Students will be challenged to good citizenship through developing the understanding and appreciation of our Christian and Canadian heritage of responsible freedom, human dignity and acceptance of authority.
- 2.3.3. Students are encouraged to take part in public speaking opportunities in wake-up calls and assemblies to share their perspectives.
- 2.3.4. Staff will demonstrate effective Christian leadership.
- 2.4. Loving - with strength of character
 - 2.4.1. Strong emphasis will be placed on the students receiving character education: honesty, kindness, loyalty, perseverance, integrity, tolerance, respect, equality, stewardship, and community awareness
 - 2.4.2. Individuality is not only respected but celebrated.
 - 2.4.3. Students are taught to be responsible for themselves, others, and property, and to treat everyone with love and respect.
 - 2.4.4. The goal is to highlight the positive traits in each student and to build, develop, instruct, and guide in those areas while also helping him or her to develop strength in weaker areas.
 - 2.4.5. Staff and students work together to create an environment in which each person feels safe and encouraged. Staff will model care and concern for students. Conflict resolution will be demonstrated and taught using an effective Biblical model, which encourages open communication, quick settlement, and discretion of the parties involved.

3. Spiritual Foundation

The Community Christian Education Program simply defined, is an integration of faith and learning. At its foundation is the Christian Bible and the belief that God is central to our humanity. The CCE program is interdenominational and embraces students and staff from a variety of church backgrounds and heritages. It is unabashedly evangelical because sharing the strength of the Christian faith with others and contributing toward community enhancement is fundamental to the mission of the program. Appendix 1 outlines the doctrinal statement of the CCE program.

As an alternative program within Edmonton Public Schools, the Community Christian Education Program partnering with parents and the EPS Board will seek to uphold all aspects of its Mission and stay true to its doctrinal beliefs by emphasizing the following:

- 3.1. The Community Christian Education Program will demonstrate its spiritual foundation in every part of its operation.
- 3.2. Prayer will have a major focus.
- 3.3. Knowledge of God, the Bible, and its relevance will be integrated at appropriate opportunities.
- 3.4. Practical outcomes of the Christian faith will be explored.

4. Programming

The Community Christian Education Program will provide excellent educational programming through an efficient and effective model that includes the Alberta Learning Curriculum with alternative programming expansion:

- 4.1. CCEP will operate within the context of its mission: committed to developing personal excellence.
 - 4.1.1. Students will be required to achieve academically at their grade level unless testing reveals significant learning problems that preclude that. However, striving for personal excellence will always be the challenge, hence the mission statement and the "Four L's" - Learning, Living, Leading, Loving.
 - 4.1.2. Student needs will be identified and addressed appropriately so that each student has the opportunity to meet the challenge of personal excellence.
 - 4.1.3. Parents are partners; therefore, CCEP has an extensive communication plan to keep parents informed of student progress in all areas, especially academics.
 - 4.1.4. Through the admissions process, parents will be fully informed of the school's spiritual and academic programs before they enroll their child. Parents and students are asked to make a commitment to support the mission of the school.
 - 4.1.5. The principal will monitor academic achievement, the spiritual quality of the school, the ability of the students to relate the Bible to learning and how the mission of the school is being fulfilled and share these results with the MCS Advisory Council.
- 4.2. CCEP will offer a program that has a strong leadership and service focus: to be a caring community.
 - 4.2.1. Students will be given opportunities to serve as leaders within the school community.
 - 4.2.2. Extra curricular activities will be provided to enhance student commitment to their community.
 - 4.2.3. Students will be encouraged to participate in a service option which enables them to volunteer in the neighbourhood community and provide a valuable service.
- 4.3. CCEP will include spiritual programming.
 - 4.3.1. Staff and student devotions and discussions within regular classroom situations will include a spiritual focus.
 - 4.3.2. Chapels, retreats, P.D. Days, staff meetings, assemblies, and school presentations will include a spiritual focus.
 - 4.3.3. Bible study and memorization will be regularly incorporated.
 - 4.3.4. Purposeful discussion of Christian morals and beliefs, as they are involved in the different subjects, will be encouraged.
 - 4.3.5. Use of Divine creation, as an alternative to the theory of evolution in the study of origins, will be a standard. Evolution theory will be taught as required.
 - 4.3.6. Resources and materials used in the education program will be chosen consistent with good and moral subject matter.
 - 4.3.7. Various groups associated with the school, ranging from council members to administrators, teachers, staff, parents and students, will be involved in regular prayer times.

4.4. CCEP will make regular program revisions.

4.4.1. Teachers are encouraged to be collaborative in planning programs and to attend program development.

4.4.2. The principal will lead teachers in ongoing development of the program.

4.4.3. Teachers will have opportunities for professional development.

5. Staff

The Community Christian Education Program teaching staff and administration will be professional and knowledgeable faith-filled Christian educators. Each teacher must hold a valid Alberta Teaching Certificate and must make an affirmation of the philosophy of the school, agreeing to support the objectives of Christian education in the school. It is expected that all staff will clearly exhibit their enthusiasm, competence and commitment to personal excellence in education in CCEP.

5.1. Teachers will structure learning environments that challenge students to personal excellence, creative and critical thinking, and the proper use of Biblical criteria for evaluation in the integration of Christian faith and learning.

5.1.1. All teachers are expected to be Christian leaders and role models by emphasizing development of personal excellence in the "Four L's" - Learning, Living, Leading, Loving and supporting the mission of the school.

5.1.2. All teachers will be purposeful about discussion of Christian morals and beliefs as they integrate these naturally into the learning of different subjects.

5.1.3. Teachers will demonstrate in their lesson plans the integration of faith and learning.

5.1.4. All teachers will visually display the "Four L's" - Learning, Living, Leading, Loving, and reinforce them, naturally and appropriately, throughout the program.

5.1.5. Teachers will encourage students to articulate the mission of the school and strive to demonstrate it in their own lives.

5.2. Teachers will demonstrate competency within their subject areas.

5.2.1. All teachers will possess or develop the knowledge, skills and attitudes required to offer the Alberta Learning curriculum within a program that reflects the CCEP mission.

5.2.2. The principal will require teachers to exhibit a love of and commitment to lifelong learning.

5.2.3. Teachers will evaluate student progress with methods appropriate to the mission goals of CCEP within the framework of EPSB assessment guidelines.

5.2.4. Teachers will find ways in which to integrate faith and learning with the proper use of Biblical criteria, no matter what subject is taught.

5.2.5. Teachers will be able to demonstrate how their teaching matches the learning styles and abilities of their students.

6. Community Focus

The atmosphere of the Community Christian Education Program will be characterized by acceptance, appreciation, respect and dependence upon each other.

Individuals will demonstrate God's love for one another, seek God's direction on a daily basis, and be encouraged to develop meaningful relationships within the context of Christian values and expectations. The desire to build a strong community of outward focused individuals with strong inward character will permeate the program.

- 6.1. CCEP teachers, staff and students will develop meaningful relationships with each other.
 - 6.1.1. Teachers will plan devotions for every class on a daily basis and student participation and interaction will be valued.
 - 6.1.2. Teachers will be able and willing to counsel students who are in need of assistance.
 - 6.1.3. Teachers will give extra academic help to students as needed.
 - 6.1.4. Teachers will develop healthy mentoring relationships appropriate to the age of their students.
 - 6.1.5. Students will grow in friendships with each other and will be challenged to develop strong interpersonal communication and positive conflict resolution skills.
- 6.2. Student success will be acknowledged and celebrated.
 - 6.2.1. Procedures and policies for rewarding student achievement will recognize a diversity of abilities and gifts.
- 6.3. CCEP will provide a safe environment for all students.
 - 6.3.1. Discipline policies will require teachers to impose consequences for inappropriate behavior that are fair, consistent and immediate.
 - 6.3.2. Each teacher will develop a classroom discipline procedure that is consistent with school and district policy.
 - 6.3.3. All students will be required to speak and behave in a manner that supports Christian expectations.
 - 6.3.4. Students will be taught to respect and care for each other.
 - 6.3.5. Teachers/Administration will consult with students in order to improve the school's atmosphere.
 - 6.3.6. Teachers will periodically review student behavior expectations and discipline procedures with parents and students.
- 6.4. CCEP will partner in education with the home.
 - 6.4.1. CCEP will partner with parents in every phase of the student's development, especially as it relates to the school program.
 - 6.4.2. The program will assist parents in keeping up with the changing culture, its effect on the home and implications of this change on their children.
 - 6.4.3. CCEP will encourage families in Christian growth and help them develop faith-filled homes.
- 6.5. CCEP will partner with the neighbourhood community.
 - 6.5.1. CCEP will partner with the neighbourhood community to meet various practical needs.
 - 6.5.2. Students will be challenged to good citizenship in the community.
 - 6.5.3. CCEP will give students growth opportunities through community interactions.

7. Meadowlark Christian School Advisory Council

The Meadowlark Christian School (MCS) Advisory Council exists to foundationally support all operational aspects of the Community Christian Education Program. Meadowlark Christian School will strive to fulfil the mission and educational vision of CCEP by giving visionary leadership, providing business management expertise, promoting healthy community relations with all stakeholders, encouraging mutual respect, facilitating effective communication, and modeling enthusiastic cooperation.

- 7.1. MCS Advisory Council will promote the mission of the Community Christian Education Program.
 - 7.1.1. MCS Advisory Council will encourage parents and other community members to understand and support the mission and values of the Community Christian Education Program.
 - 7.1.2. Within the policy framework of EPSB, MCS Advisory Council will support the overall direction of the Community Christian Education Program.
- 7.2. Open communication, integrity and community building will characterize MCS Advisory Council.
 - 7.2.1. MCS Advisory Council and its administration will build unity among parents by:
 - 7.2.1.1. Holding regular meetings to inform parents and solicit their feedback
 - 7.2.1.2. Distributing written communication to support the communication process
 - 7.2.1.3. Organizing community building events
 - 7.2.1.4. Encouraging the work of parent committees
- 7.3. The MCS Advisory Council will work together with the Superintendent of the School Board to safeguard the integrity of the mission of the Community Christian Education Program.
 - 7.3.1. The Advisory Council will develop a set of long and short term goals that express the broad intentions of the strategic direction.
 - 7.3.2. The Advisory Council will provide advice in how to translate the mission of the school into clear and consistent guidelines for administration, staff, and volunteers.
 - 7.3.3. The Advisory Council will monitor the school's success in achieving the mission statement.
 - 7.3.4. The Advisory Council will provide a sound financial basis to maintain the school buildings and property, and the quality of the program in accordance with the mission.
 - 7.3.5. The Advisory Council will actively participate in the selection process for the principal.
- 7.4. MCS Advisory Council will promote Christian education in the Edmonton area.
 - 7.4.1. MCS Advisory Council will create and maintain an alumni association.
 - 7.4.2. MCS Advisory Council will promote Christian education through local churches and advertising in local media.
 - 7.4.3. MCS Advisory Council will create opportunities for the public to experience Christian education through events like an annual open house

Appendix 1

Community Christian Education Program Doctrinal Statement

1. We believe in the divine inspiration of the Old and New Testament Scriptures.
2. We believe in the authority of the Word of God in all matters of faith and practice.
3. We believe in the Trinity (God the Father, God the Son, and God the Holy Spirit).
4. We believe in the deity, and personality of God the Father.
5. We believe in the deity and humanity of Jesus Christ, God the Son.
6. We believe in the incarnation of Christ, His virgin birth, His sinless life, His substitutionary death, His bodily resurrection, His ascension to heaven, and in His future return to this earth.
7. We believe in the deity, personality and power of God the Holy Spirit.
8. We believe that man was created by God in His own image.
9. We believe in the alienation of man from God by sin.
10. We believe in the atonement for sinners by the blood of Christ.
11. We believe in the redemption and salvation of sinners by grace alone, through personal faith in the finished work of Christ.
12. We believe in the importance of personal confession of sins to God.
13. We believe in the full and free forgiveness of sins through faith in Christ.
14. We believe in the necessity of a spiritual new birth.
15. We believe that the Holy Spirit lives in the believer and enables him to walk in purity of life and submission to the will of God.

Attachment 2

This is a copy of the Alberta School Act for reference purposes only. Copyright in the Statutes and Regulations, whether in print or electronic format, belongs to the Province of Alberta. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law. Official copies of Alberta legislation are available in print and electronic format from: [REDACTED]

Consolidation of this act has been updated to March 26, 2002.

<http://www.qp.gov.ab.ca/Documents/acts/S03.CFM>

21 - Alternative programs

- (1) In this section, "alternative program" means an education program that
 - (a) emphasizes a particular language, culture, religion or subject-matter, or
 - (b) uses a particular teaching philosophy, but that is not a special education program, a program referred to in section 10 or a program of religious education offered by a separate school board.
- (2) If a board determines that there is sufficient demand for a particular alternative program, the board may offer that program to those students whose parents enroll them in the program.
- (3) A board that offers an alternative program shall continue to offer the regular education program to those students whose parents do not enroll them in the alternative program.
- (4) If a parent enrolls a student in an alternative program, the board may charge that parent fees for the purpose of defraying all or a portion of any non-instructional costs that
 - (a) may be incurred by the board in offering the alternative program, and
 - (b) are in addition to the costs incurred by the board in providing its regular education program.

Attachment 3

Alberta Government memo circulated to the School Boards in the province regarding the use of Alternative Program Fees.

Available at <http://education.alberta.ca/media/4031308/66383%20-%20alternative%20programs%20-%20faq%20%20update%20june%202010.pdf>

Highlighting added

ROLES AND RESPONSIBILITIES FOR ALTERNATIVE PROGRAMS

1. What can an alternative program fee cover?

Section 21(4) of the *School Act* states: "If a parent enrolls a student in an alternative program, the board may charge that parent fees for the purpose of defraying all or a portion of any non-instructional costs that

- (a) may be incurred by the board in offering the alternative program, and
- (b) are in addition to the costs incurred by the board in providing its regular education program."

Section 21 of the *School Act* permits a public board, a separate board, or a francophone regional authority to defray all or a portion of these additional non-instructional costs by charging parents who choose an alternative program a fee.

A board has the authority to approve non-instructional alternative program fees. To ensure that the fee amount is accurate and transparent, boards should approve alternative program fees annually and provide the alternative program fee information to parents prior to student registration in any given school year.

Some examples of non-instructional costs include:

- Resources specific to the alternative program (e.g., Montessori materials for a Montessori alternative program, specialized art materials for a fine arts alternative program, bible study materials for a Christian alternative program).
- Professional development for staff specific to the alternative program.
- School uniforms.
- Instructors providing instruction for the alternative portion of the program (e.g., a hockey coach for a hockey alternative program, a dance instructor for a fine arts alternative program, a rabbi for a Jewish alternative program), not for core courses.
- Field trips required of all students that support the alternative program (e.g., travel to games for a sports alternative program, attendance at a religious retreat for a Muslim alternative program, attendance at a theatre presentation for a fine arts alternative program).

The Alberta School Boards Association (ASBA) has provided advice to boards regarding school fees in *Policy Advisory: School Fees (Updated May 2007)* including, "It is essential that the development of policies and practices related to school fees reflect the principles of clarity, transparency, fairness and accountability."

The ASBA policy advisory on school fees contains guidelines which may assist boards in the setting of alternative program fees:

1. School board policy should guide schools in setting school-based fees. Procedures need to be implemented to support compliance with board policy at the school level.
2. School boards should set fees in consultation with school principals, staff, school councils and parents. Central office staff and other stakeholder groups are available to support the use of consultation processes.
3. School boards should ensure that fees are only used for the purpose for which they were collected and should be directly related to the cost of resources provided to students.
4. School boards should ensure that schools communicate with their school community and central office staff about the need for school fees and have summary financial statements on public file to show that the monies collected were used to support the program for which they were intended.
5. School boards should ensure that there is a provision for fees to be waived in situations deemed appropriate by school leaders. The existence of these provisions should be clearly communicated to school staff and parents.

In order to reflect the principles of clarity, transparency, fairness and accountability, a board should be able to provide parents with an itemization of the alternative program fee and what it provides for in the program.

A board should also set fees for transportation to the alternative program separately from the alternative program fee. This provides parents with the choice of using the transportation to the alternative program as arranged by the board or transporting their child to the program on their own.

2. What is the role of Alberta Education in relationship to school boards and setting alternative program fees?

Alberta Education has no direct role in setting alternative program fees. Alternative programs are established at the discretion of the board, and the board is responsible for setting and being accountable for alternative program fees.

The board should have in place a policy for alternative programs that reflects Alberta Education's *Alternative Program Handbook*. In setting alternative program and other fees, the board must ensure that it complies with all applicable legislation. The board should approve fee rates in time to ensure parents can make informed choices for the next school year.

Parents may appeal to the board a decision of an employee of a board regarding an alternative program fee. Further, once the matter has been heard at the board level, section 124 of the *School Act* allows a parent to request, in writing, that the Minister review the decision of the board relating to the amount and payment of fees or costs.

3. Can a society or non-profit company associated with an alternative program set a society or other form of membership fee?

A society or non-profit company associated with an alternative program may set a society fee or other fee related to membership or involvement in the society or company. This fee is separate from the alternative program fee set by the board.

4. Can parent payment of the fee set by the society or the non-profit company be a condition of the board's enrolment of a student in the alternative program?

An alternative program is a public education program offered by a public board and admission to the school offering the program is under the direction of the board. A board cannot deny a student access to the alternative program on the basis that the student's parent is not a member of a society or does not pay the fee of a society or non-profit company associated with the program. Following the ASBA policy advisory on school fees, the society's or non-profit company's fee should be an optional fee that parents may choose to pay and should be outlined and explained in board and school communications related to the alternative program.

5. Can a board give all or portion of the alternative program fee to the society or non-profit company?

The board may choose to use all or a portion of the alternative program fee to reimburse a society or non-profit company for its support. The board should be clear, transparent and fair in setting this portion of the alternative program fee. The board remains accountable for the disbursement of the alternative program fee, including the portion it may pay to the society or non-profit company.

6. Can a board delegate the authority to set and be accountable for alternative program fees to a society or non-profit company?

Section 61 of the *School Act* enables a school board to delegate its power, with certain limitations, to:

- a) any of its employees,
- b) a committee of the board or that is established by the board,
- c) a school council, or
- d) a joint committee established under section 63.

Section 61 does not enable a board to delegate its power to a society or non-profit company. These entities are governed by legislation that is separate from that governing public education. Boards do not govern nor regulate a society or non-profit company. Although the board may have an agreement with a society or non-profit company related to the alternative program, only the board may set alternative program fees.

7. Who can attend an alternative program?

Section 45(1) of the *School Act* states that a board shall ensure that each of its resident students is provided with an education program consistent with the requirements of the *School Act* and its regulations. Section 45(3) states that a board shall enroll a resident student of the board, or of another board, in a school requested by the parent if, in the opinion of the board, there are sufficient resources and facilities available to accommodate the student.

Therefore, school boards must enroll a student in an alternative program of the parent's choice if, in the opinion of the school board,

- the student's educational needs can be appropriately addressed in the program; and
- the program has sufficient resources and facilities to accommodate the student.

Boards offer alternative programs to meet the specific educational interests of students and their parents. In order to support student success, it is critical that students, their parents and the board look for a match between the specific educational interests of the student and the primary focus of the alternative program. Given that boards offer alternative programs to address a specific programming focus, the appropriate placement of students must be fully considered.

If a parent wants to register their child in an alternative program and it is determined that the student's educational needs cannot be appropriately addressed in the program or that the program does not have sufficient resources and/or facilities to support the student, after consultation with the parent, the board may refuse to enroll the student in the alternative program. In such cases, it is important for the board to communicate clearly with parents its decision and the rationale for the decision. If this decision is made by an employee of the board, this decision may be appealed to the board by the parent of the student (or the student, if the student is 16 years of age or older).

8. What legislation governs a society or non-profit company?

The *Societies Act* and the *Societies Regulation* regulate societies incorporated in Alberta. The *Companies Act* regulates non-profit companies.

9. What is the role of the society or non-profit company that operated a former private school that is now an alternative program?

The society or non-profit company that previously operated a private school may negotiate its new role with the school board that now operates the school as an alternative program. The new role must reflect the change in the school's status from a private school to a public education program. The board now operates the school and is accountable for all aspects of the school's operation and administration.

10. What happens when a parent disagrees with the fees the board charges for the alternative program?

Parents have the right to appeal a fee decision to the board and then have the right, under section 124 of the *School Act*, to request the Minister review a board's decision on the appeal.

11. What is the process for accessing lease support if a board decides to support the alternative program in a facility not owned by the board?

The *School Capital Manual* provides information about the process boards may use to request lease support. Education is currently undertaking a review of leasing and will update the *School Capital Manual* once the review is complete and any recommendations are approved.

School jurisdictions may receive funding to lease appropriate facilities when other accommodation options are not available or practical to accommodate current enrolment.

A school jurisdiction requesting funding approval to cover the temporary leasing cost of a facility must submit the following information to Capital Planning Branch:

- The number of students and the programs that would be accommodated in the temporary facility.
- The enrolment projections for the next five years and the utilization rates of school facilities in the jurisdiction that are within bussing distance of the students requiring temporary facilities.
- The availability of space in school facilities owned by other school jurisdictions that is accessible to, or within bussing distance of, the students requiring temporary facilities.
- The area of space to be leased, the terms and conditions of the lease, the cost of the lease and any other information that is relevant to the lease.

12. What, if any, transportation funding is there for students who parents enroll them in an alternative program?

If a resident student of an urban district is enrolled in a school of the parent's choice outside the attendance area or transportation service area (as defined in the *Student Transportation Regulation*) in which the student resides, eligibility for transportation support is determined by the distance to the school nearest the student's residence.

In rural areas, if a resident student of a board is transported by the board to a school of the parent's choice outside the attendance area or transportation service area (as defined in the *Student Transportation Regulation*) of the designated school for the student, only density support and distance support to the nearest school may be claimed for that student if he or she is an eligible passenger. Where a board has adopted over-lapping school attendance or transportation service areas, density support and distance support to the school nearest the student's residence may be claimed.

If a board operates an alternative program outside the board's geographical boundary, there is no transportation funding for students attending the program unless the student is a resident student of the board.

Attachment 4



DRAFT (March 2011)

Christian Program Fees - Receipting Policy

- The MCS Foundation Ltd. (the Foundation) is a not for profit corporation.
- The Foundation exists for the sole purpose of supporting Christian Education primarily, although not exclusively, through the implementation of the Christian Community Education Program at Meadowlark Christian School. Thus ensure that religious training continues to be central to learning environment as per our mission and vision.
- The Foundation has entered into an agreement with Edmonton Public Schools (EPS) to partner with them to provide a Christian Education Program to all students who truly desire it. This agreement (attachment 1) exists subject to Section 21 of the Alberta School Act (attachment 2).
- Edmonton Public Schools runs Christian Alternative Programs at Meadowlark Christian School. All students at this school are students of EPS. All teachers work for EPS and are members of the ATA. EPS provides full funding to these schools and is responsible for ensuring the academic success of attending students.
- ESCE supports the Edmonton Christian Schools by securing and distributing funds for areas that support the continued delivery of the Christian program, including:
 - Staff Christian Professional Development
 - Christian teachers convention
 - Christian curriculum development days
 - Christian conferences
 - Christian in-services and other professional development opportunities directly related to the continued delivery of the Christian program.
 - Christian textbooks and Christian Library books
 - Facilities that host the program - EPS leases the facilities from the Foundation
 - Capital items as part of the provision of facilities (i.e., computers and furniture)
 - Administrative support for promotion, recruiting and registration activities related to the Christian program
 - Monitoring the Christian program

- A Foundation office, staff, supplies, operations and the provision of support of Foundation activities
 - The Foundation raises funds through:
 - Fundraisers
 - Public donations
 - Christian Program Fees
 - All donations and Christian Program Fees are 100% receiptable according the rules and regulations set out by the Canada Revenue Agency.
 - CRA circular 75-23 notes that if a school teaches exclusively religion and thereby operates solely for the advancement of religion, payments for students attending that school are not considered tuition fees but will be considered as valid donations, and providing the school is a registered Canadian charitable organization, official receipts for charitable donations may be issued for such payments. As well, circular 75-23 states that “religious training is not viewed as consideration for purposes of the definition of a gift”.
 - The full cost of non-religious academic tuition is borne by the province. No amount that is receipted by the Foundation is used in the calculation of the “cost per pupil” for that student’s education. The Foundation does not provide tax deductible receipts for any amounts received for:
 - Direct transportation costs
 - Grade level fees (money that is collected by the Foundation but turned over to the schools to pay for things like school supplies, field trips, special events)
 - Funds received for reading recovery
 - Funds received for pre-school fees
-

Your File Reference: 0727644

May 23, 2013

SENT BY FAX

Clara Chin
Audit Division
Edmonton Tax Services Office
Suite 10
9700 Jasper Avenue
Edmonton AB T5J 4C8

Attention: Clara Chin

Dear Ms. Chin:

Re: MCS Foundation Ltd. • BN 107685620RR0001
Response to your letter dated May 2, 2013

We have been retained by MCS Foundation Ltd. (the "Organization") with regard to the audit related to the operations of the Organization for the period of 2008-09-01 to 2009-08-31. A Business Consent Form authorizing us to act on the Organization's behalf is attached to this letter.

In your letter to the Organization, dated May 2, 2013, you indicated the Canada Revenue Agency (the "CRA") was of the position that the Organization was non-compliant with regard to the issuance of official donation receipts to parents for payments to the Organization to cover the costs of their child or children's participation in the alternative Christian program at Meadowlark Christian School.

The Organization disagrees with this position.

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According to subsection 118.1(1), "Total Charitable Gifts", of the *Income Tax Act*, an official donation receipt may be issued to a taxpayer who has provided a registered charity with a gift. The Courts have stated that to be a gift, a payment must be voluntary and may not be in anticipation of consideration.

While payments made to a school with an understanding that said payments will cover the payor's child or children's cost of education are normally not considered to be gifts, the CRA has allowed a policy exception to this rule found in Information Circular 75-23 ("IC75-23"), whereby payments made for religious training are considered to be gifts and therefore may be charitable donations.

The Organization used to operate a private school until 2004 when the Organization entered into an agreement with the Edmonton Public School District No. 7 to operate as an alternative program within the local public school board. Under that agreement, the local public school board pays for the normal secular costs of education. The Organization exists for the sole purpose of supporting the alternative Christian Education Program.

In your letter dated May 2, 2013, you indicate that the CRA's practice of allowing official donation receipts for payments for religious training only applies to payments which are made directly to the school attended by the payor's child or children. Therefore, as the Organization is no longer operating the school, but is instead merely operating to support the Christian program at that school, it no longer fits under the CRA's policy in IC75-23.

With respect, this position ignores both the legal rationale of the policy in IC75-23 and the caselaw supporting IC75-23.

Under IC75-23, "religious training is not viewed as consideration for purposes of the definition of a gift." While IC75-23 does not specifically contemplate payments made to a non-school that are then used to pay for religious training at an otherwise secular school, if religious training is not consideration when a school provides it, then it would not be consideration when another party provides it in a school. Therefore, as long as the payments are for religious training, they are not consideration, and fit under the CRA's policy in IC75-23.

This position has been upheld by the Courts, specifically in the 1997 Tax Court decision of *Woolner v R*, which was upheld by the Federal Court of Appeal. In *Woolner v R*, taxpayers made payments to the Mennonite church which were used to provide students with bursaries to a Mennonite school. The Court did not consider to whom the payments were made, but focused on what the payments were used for. The portion of the payments that were ultimately used for the secular education of the taxpayers' children were not charitable donations, however, the balances were charitable donations. The key consideration was the purpose of the payments. The Court in *Woolner v R*, after reviewing the caselaw, concluded that "payments made for religious training were not tuition education payments but were payments made [for religious training]," and as such, were charitable donations.

As addressed above, the Organization's sole purpose is to support the Christian Education Program at the School. As a result, the Organization is akin to a religious school, in that it operates solely for the advancement and teaching of religion. All the secular school costs

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are covered by the local school board. Therefore, following the rational of IC75-23, all payments for students related to the Christian Education Program should be considered as valid donation receipts and official receipts for charitable donations may be issued for these payments.

Given the above, no compliance action is necessary.

