

Minnesota
Department
of **Education**

May 19, 2008

Via Facsimile and U.S. Mail

Mr. Asad Zaman

Director

Tarek ibn Ziyad Academy

Dear Mr. Zaman:

As you know, the Minnesota Department of Education (MDE) has been conducting a review of the operations of Tarek ibn Ziyad Academy (TiZA) to ensure that the school is in compliance with state law requiring that "a charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations." See Minn. Stat. § 124D.10, subd. 8(c).

MDE's review of TiZA's operations and related matters focused primarily on: (1) the school's accommodations for student prayer; (2) after-school transportation and activities available to the school's students; and (3) the school's curriculum. Each area is discussed below. Complete findings from the review are detailed in the enclosed document, although selected findings are discussed in this letter to address specific matters.

MDE has reviewed all correspondence between MDE and TiZA, including letters from MDE to TiZA on March 24 and April 10, 2008 to which TiZA responded on April 17; conducted an all-day scheduled site visit on April 24, which included interviews with you and several staff, and a separate interview with a former substitute teacher; and conducted an unscheduled site visit on Friday, May 2, 2008.

MDE wishes to thank TiZA's staff for their courtesy and cooperation during all aspects of the review process, including both site visits, and their responsiveness in providing information requested by MDE. In addition, MDE understands that TiZA unfortunately has received threatening communications in recent weeks and appreciates the professionalism of the school's staff in working with MDE during a time when there was concern for the safety of students and employees.

Findings from MDE's Review

MDE determined that, with regard to the areas it reviewed, most of TiZA's operations are in compliance with Minnesota's charter school law and consistent with the U.S. Department of Education's "Guidance on Constitutionally Protected Prayer in Public

Elementary and Secondary Schools” See U.S. Dept. of Education Guidance dated February 7, 2003.

However, at this time MDE did identify items of concern, which are described below. MDE directs TiZA to promptly take appropriate steps to address these issues.

Friday Communal Prayer

As an initial matter, based on MDE’s site visit and all materials submitted by TiZA, TiZA’s regular accommodations for student prayer on Monday through Thursday appear to satisfy applicable legal requirements. Prayer appears to be voluntary and student-led, and the short (four- to five-minute) periods of non-instructional “quiet” time during which prayer is an option appear to have minimal effect on the flow of learning and on students who choose not to pray.

On Friday, the school provides accommodations for a communal prayer event. Based on MDE’s site visits and on material submitted by TiZA, it appears that Friday communal prayers are organized as follows:

- Students and employees are “released” from their duties for approximately 30 minutes during the school day, after which the regular school schedule resumes;
- In the spring months, this occurs from approximately 1:30-2:00 p.m.; in the winter months, when astronomical noon is earlier, MDE understands the 30-minute block of time is scheduled earlier in the day;
- Prayer is led by parent volunteers or community members (non-TiZA employees), not students;
- Parent volunteers escort students who wish to pray to and from the prayer area;
- Teachers who wish to pray do so in the same room as the students;
- It is Director Zaman’s practice to be absent from communal prayer at TiZA on Fridays, in order to avoid the appearance of his involvement in the event;
- Students who choose not to pray engage in quiet-time activities; teachers who choose not to pray either go to the teachers’ lounge or supervise the non-participating students; and
- It is unclear whether the students recoup 30 minutes of instruction at another time during the day or week.

As currently structured, TiZA’s Friday prayer raises the following concerns.

1) To the extent this 30-minute block is structured as a “release” of students during the school day -- and “release” is the term used by TiZA -- it does not appear to satisfy Minnesota’s statutory requirements for what commonly is known as “release time.” Minnesota law permits parents to “release” their children to receive religious instruction during the school day for up to three hours each week. *See* Minn. Stat. § 120A.22, subd. 12. To satisfy state and federal legal standards, however, such supervised religious activity during the school day “must be conducted and maintained in a place other than a public school building.” *See* Minn. Stat. § 120A.22, subd. 12 and U.S. Dept. of Education Guidance (“schools have the discretion to dismiss students to off-premises religious instruction, provided that schools do not encourage or discourage participation in such instruction or penalize students for attending or not attending.”) This currently is not the case, as the religious activity for which students are “released” is held on property leased by TiZA for the school day.

2) Unlike the brief five-minute prayers during the rest of the week, the 30-minute interruption in the flow of instruction for all students on Fridays is more significant. To the extent this block is not structured to satisfy statutory “release time” requirements (see above), or not recouped during other parts of the week or school day, a repeated 30-minute suspension of instructional time for all students would amount to several lost days of instructional time over the school year. This may go beyond simple “accommodation” for those who wish to pray and instead impose a material burden on non-participating students. *See* U.S. Dept. of Education Guidance (“schools may excuse students from class to remove a significant burden on their religious exercise, where doing so would not impose material burdens on other students.”) Failing to make up the lost instructional time may, in addition, place TiZA at risk of failing to meet Minnesota’s minimum annual hourly attendance requirements for students. *See* Minn. Stat. § 126C.05.

3) To the extent that Friday communal prayer is organized and led by parents or community members and not students, it may constitute the sort of “instruction” contemplated by formal release time and not the “accommodation” of student-initiated and student-led prayer that is available during the rest of the week and no longer the simple “accommodation” of student-initiated and student-led prayer contemplated by the law and the U.S. Department of Education’s guidance. In addition, to the extent the 30-minute block may be considered “non-instructional” time, and the school permits access to students by one outside group (parents and community volunteers), that may trigger an obligation to permit access by other outside groups during that time. *See* U.S. Dept. of Education Guidance (schools may not “grant religious speakers preferential access to public audiences.”)

4) Teacher participation in school religious activity is judged by context. While teachers are forbidden from participating with students in religious activities when acting in their capacities as TiZA employees, teachers may take part in religious activities “where the overall context makes clear that they are not participating in their official capacities.” *See* U.S. Dept. of Education Guidance. Context includes the age and impressionability of the students as well as the circumstances under which the activity occurs. While teachers may intend to participate in Friday prayers as citizens and not as employees, the mere fact

of teachers praying alongside young elementary school students in the school building during the school day may create the impression that the school officially is endorsing religion. The fact that Director Zaman does not participate in Friday prayer at the school to avoid creating this impression lends further support to the notion of possible confusion for young students.

MDE requests that TiZA modify its Friday prayer practices to address the above concerns.

Student Transportation at the End of the School Day

Currently, students may leave the school at the end of the normal school day at [REDACTED] if they are picked up by a parent, but TiZA does not provide transportation for students until [REDACTED] when after-school activities have concluded. A few students are picked up each day at [REDACTED] by their parents. TiZA receives annual transportation aid from the state of Minnesota to transport its students, which TiZA applies to a transportation contract with a private bus company.

For students whose parents do not pick them up at [REDACTED], two programs run simultaneously every day immediately following the end of the school day: (1) a non-fee-based program called CARE, run by TiZA with after-school grant funds (in which approximately 30-40% of students participate); and (2) a fee-based Muslim Studies program run by the Muslim American Society. On selected days, students also may participate in Boy Scouts and Girl Scouts after school.

MDE determined that the single sectarian after-school activity available for students (Muslim Studies) was entirely voluntary and not provided, organized or coordinated by TiZA. Many students choose to participate in the nonsectarian after-school activities that are provided by the school (CARE, Boy Scouts and/or Girl Scouts).

MDE has concerns, however, about TiZA's provision of after-school transportation. Currently, TiZA offers students no transportation at the end of the normal school day for students who do not participate in after-school activities. Students needing transportation home must wait approximately one hour for a ride. This is of concern to MDE for the following reasons:

1) TiZA indicated that this was the only time available from the bus company. Since TiZA contracts with a private company for its busing, it presumably has greater flexibility in scheduling bus times than charter schools that rely on local school districts for transportation. TiZA informed MDE that earlier bus times were an option; however, the cost was prohibitive.

2) Mr. Zaman also indicated that the vast majority of parents sought the later bus time after being offered an option of choosing a [REDACTED] bus time. Mr. Zaman indicated the primary reason parents chose the later time was due to parental work

schedules. However, since a majority of TiZA students are enrolled in the fee-based Muslim Studies class after school this could create an appearance that the [REDACTED] bus time was selected primarily to facilitate parents' enrollment of their children in after-school religious instruction (Muslim Studies). This could be seen as impermissible use of state transportation aid, in support of religion.

MDE has determined that, under Minn. Stat. §§ 124D.10, subd. 16; 123B.88, subd. 1; and 123B.92, subd. 1, schools are obligated to provide transportation at the end of the normal school day to students who do not participate in after-school activities. Since TiZA has elected to provide its own transportation under Minn. Stat. § 124D.10, subd. 16, the school must, at minimum, include regular transportation to and from school at the beginning and end of the normal school day for students entitled to receive it under Minn. Stat. § 123B.88, subd. 1. While TiZA also may provide transportation following after-school activities, this would be considered late activity bus transportation and not regular transportation.

MDE requests that, by the beginning of the 2008-09 school year, TiZA begin providing transportation at the end of the normal school day to students who do not participate in after-school activities. The school may consider appropriate options that are commensurate with the number of students who need transportation at that time.

Curriculum

MDE reviewed a sample of TiZA's curriculum and toured the school library and determined that there were no concerns with respect to the law's requirement that operations be nonsectarian. *See* attached Summary of Findings.

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Thank you again for your cooperation in this matter. Please contact Morgan Brown at 651-582-8627 if you have any questions.

Sincerely,



Chas Anderson
Deputy Education Commissioner

C: Morgan Brown, Assistant Education Commissioner
Wayne Jennings, Sponsor Liaison for Islamic Relief

**Tarek ibn Ziyad Academy
Findings Report from MDE Staff Site Visits
(April 24 and May 2, 2008)**

May 19, 2008

This report summarizes the findings made by the Minnesota Department of Education (MDE) as a result of its site visits on April 24 and May 2, 2008, as well as its review of all information submitted by TiZA in response to requests from MDE.

MDE's review focused on three issues:

- (1) Accommodations for student prayer;
- (2) After-school transportation and student activities; and
- (3) Curriculum.

Accommodations for Student Prayer during the School Day

In order for Muslims to pray their daily prayers five times a day, they must be in a state of "ritual purity," according to Mr. Asad Zaman. To accommodate student prayer during the school day, all TiZA students are given the opportunity to use the bathroom and wash their hands and/or wash for prayer before their individual lunch periods.

MDE staff observed several classes using the restroom wash basins on Thursday, April 24, 2008. TiZA staff appeared to be involved with this bathroom break from a supervisory and safety perspective only. Students who did not use the bathroom and those that did not perform ritual washing were not directed or required to return to the bathroom washbasins.

It is MDE's understanding that, in the Muslim religious tradition, prayer times are based on an astronomical noon. The specific time may be different for different families at TiZA practicing different variations of the Muslim faith. TiZA's policy is to offer an accommodated prayer time at 12:30 and 3:30 p.m. in the winter (due to the shorter day) and at 1:30 p.m. only during the spring months.

As observed, and as directed by Mr. Zaman, school staff do not lead the prayer. Prayer Monday through Thursdays is student-led. There are three spaces in which this prayer might take place: grades K-2 pray in their classrooms; grades 3-4 use a carpeted open hallway/communal space outside their classrooms; and grades 5-8 pray in a prayer room owned and operated by the Muslim American Society for which TiZA does not pay rent. This facility is located within the premises. Prayers take 4-5 minutes total.

MDE staff observed some grade 5-8 students participating in prayers at 1:30 p.m. on Thursday, April 24, 2008. Some students remained in the classroom during this time and did not partake in prayer. Teachers along this corridor managed both their classrooms and the students in the hallway through physical proximity to the two spaces. For example, several teachers stood in the hallway to monitor both the hallway traffic as well as the students who remained in their classes and chose not to pray.

This accommodation is built into the class schedule as non-instructional time. Schedules posted in classrooms indicated, variously, "quiet time" or "reading" for this time period, although one classroom schedule had several options listed, including "prayer."

TiZa does not have a written policy addressing these accommodations.

According to Mr. Zaman, teachers are taught "multiple times" to offer prayer as a choice, including at a cultural acclimation staff training day prior to the start of the school year. Teachers were observed stating a choice to students either to go to their prayers or return to the classroom. Students not participating in prayers are supervised in the classroom and were observed to be talking to other students or quietly reading.

According to Mr. Zaman, kindergarten and first-grade teachers are instructed not to help the students in their prayers. MDE staff spoke with a kindergarten teacher who indicated the children in her class were too young to have learned prayers yet and eventually would be taught their prayers by their parents. MDE staff did not observe kindergarten children in prayer.

The TiZA school calendar includes both Muslim and Christian holidays, as evidenced on their school website.

Accommodations for Friday Communal Prayer

According to Mr. Zaman, on Monday through Thursday, school staff are discouraged from praying with the students and are asked to pray separately from them if they choose to pray. School staff were not observed participating in prayers or in their preparations on Thursday, April 24, 2008.

Friday is the Muslim holy day. It is MDE's understanding that Friday prayer is communal and the religious requirement is that Muslims share this prayer together. According to Mr. Zaman, approximately 20 staff members would have to be absent for over an hour during this time in order to attend services at the nearest mosque in Eagan. As a result, the school provides a 30-minute block of time to students and teachers who chose to pray on-site in a school gymnasium.

According to Mr. Zaman, no staff lead this prayer as it is organized and directed by community volunteers, all non-TiZA staff. Those teachers who choose not to participate are either in the teachers' lounge or supervising students who also are not participating.

Mr. Zaman has stated his practice is to be absent from communal prayer at TiZA on Fridays in order to avoid questions of the propriety of his participation.

MDE staff observed the communal Friday prayer at 1:30 pm on Friday, May 2, 2008, and observed adults escorting children to the gymnasium. Mr. Zaman was away from the school. MDE investigators were requested by Mr. Zaman not to ask questions of school staff in his absence. According to the school's assistant principal, the adults were volunteers and parents of the children. One staff person was observed to tell a student walking through the halls, "Either go to Jumu'ah [Friday prayers] or to your classroom."

Once the prayer service had begun, MDE staff observed two classrooms of students, one a group of younger students, and the other a group of older students. The students either were watching a movie or reading quietly. Staff not participating in the Friday prayers either were monitoring students or in the staff lounge.

Staff were not observed to lead the Friday prayer, but were included with the students choosing to pray. After the communal prayer, students who chose to pray joined the students who had remained in their classes for the remainder of the school day and scheduled instruction time resumed.

TiZA does not have a written policy addressing this accommodation.

Outside volunteers, including parents, organize and lead the Friday prayers. When asked, Mr. Zaman noted that it is not TiZA's responsibility to manage or organize the 30-minute block of time and the outside volunteers have capably managed Friday prayer services. The volunteers were observed leading the students to the area of the gymnasium in which the prayer service took place. The classrooms in which students not participating in prayers were being supervised were adjacent to the gymnasium. Staff were in the hallways directing students to choose either to go to the gymnasium or to the classroom.

After-School Activities and Transportation

TiZA classes end at [REDACTED] Monday through Friday. Two programs run simultaneously every day, Monday through Friday, on both school campuses, immediately following the end of the school day. There is a fee-based program and a non fee-based program.

The fee-based program is called Muslim Studies. This program is run by the Muslim American Society (MAS). Parents pay \$50 a month per child for their children to be involved in this program. Parents are made aware of after-school programs offered through the TiZA office staff. If parents inquire about the Muslim Studies program, they are given a phone number to contact MAS directly. According to Mr. Zaman, TiZA does not keep track of enrollment in this program, as it is not a TiZA-run program.

The non-fee based program is called CARE and, according to Mr. Zaman, is funded by specific after-school grant money. It uses the Second Step curriculum, which utilizes studies and practices that include empathy-building, problem-solving and anger management. Parents sign up for this program by filling out a form from TiZA office staff. TiZA does keep track of the enrollment of students in this program, as it is a program run by TiZA. Roughly 30-40% of TiZA students participate in this program, with participation rates slightly higher in the upper grades.

A few students are picked up at [REDACTED] by their parents. All students have the option of taking the bus at [REDACTED]

Three programs run after [REDACTED] once a week on various days. They are Girl Scouts, Boy Scouts, and Soaring Comets (Inver Grove Heights campus) or Continuing Success (Blaine campus). The Soaring Comets and Continuing Success programs also are funded by after-school grant money and take place one day per week from [REDACTED]. These programs reportedly include park clean-up activities with one paid teacher's involvement. Students are then either driven home by volunteer parents or in a MAS van TiZA borrows at no fee.

On April 24, 2008, students were observed at [REDACTED] moving about the building. Some were being picked up by a parent, others remained in their classroom for Muslim Studies, and others were assembling in small groups in the gymnasium for CARE. Several teachers were in the gymnasium, organizing the small groups. A group of older students was observed going to the computer lab for supervised time on the computers. During Muslim Studies, some teachers not involved in the CARE program remained in their classrooms for preparation time. The day's schedule in one classroom included Muslim Studies in the list of subjects.

Curriculum

MDE staff reviewed a sample of the 5th grade curriculum. Scott-Foresman publishes the social studies curriculum, Prentice Hall publishes the geography/cultural studies curriculum, and the school uses the Saxon mathematics program. This is standard curriculum found in many public schools across Minnesota. According to Mr. Zaman, although the school originally considered a series of supplements to the curriculum, they were found to be unhelpful and were never used. According to TiZA, there is no supplemental curriculum used by staff.

MDE staff toured the school's library and reviewed titles available to students. MDE staff found no curriculum regarding one or more religions beyond generalized discussions in standard textbooks. No religious titles were observed in the library.

 5/19/08
Chas Anderson
Deputy Education Commissioner