

197-01

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Dear Counsel:

Upon review of the papers filed in the matter entitled *In the Matter of the Revocation of the Charter for the Greenville Community Charter School, Hudson County*, Agency Dkt. No. 148-5/01, the Assistant Commissioner, to whom this responsibility has been delegated pursuant to *N.J.S.A.* 18A:4-34c, has determined to deny the Board of Trustee's motion for stay, pending appeal to the State Board of Education, of the Commissioner's April 11, 2001 decision to revoke the charter of the Greenville Community Charter School effective June 30, 2001.¹

In its papers, the charter school (Petitioner) argues that it has met the standard for grant of emergent relief pursuant to *N.J.A.C.* 6A:3-1.6 and underlying case law. Specifically, Petitioner argues that its students, parents/guardians and staff will suffer irreparable harm if the motion for stay is not granted, in that they will need to make alternative arrangements for schooling and employment before September, even as Petitioner's appeal of the Commissioner's decision is pending before the State Board, and they will then be subjected to the stress and anxiety of moving to a new school. Petitioner additionally argues that it is likely to prevail on

¹ This matter was filed *nunc pro tunc* on May 23, 2001, with regard to a determination made on April 11, 2001. The file was inadvertently transmitted to the Office of Administrative Law on that date, but returned to the agency upon subsequent request.

the legal and factual merits of its appeal, since the Commissioner did not provide requisite notice that the school was in jeopardy of losing its charter and significant strides have already been made in remedying identified deficiencies. Finally, Petitioner argues that the harm to the students, parents/guardians and staff of the school, if it is not permitted to remain open, will be greater than the harm to the Commissioner and Department of Education, which will be inconsequential, if operations continue pending appeal.

Upon review of Petitioner's arguments and the Department's response to them, I concur with the Department that a stay of revocation would not be appropriate in this instance. Specifically, the Assistant Commissioner concurs that the deficiencies identified in the Department's review of the Greenville school are longstanding, not quickly or easily remediable, and sufficiently serious to preclude the school's continued operation pending appeal and further attempts at correction. Particularly troublesome, after two years of operation, numerous on-site visits by Department staff, and prior indications of the presence of substantial problems, is the persistence of deficiencies in educational programming, staff certification, provision of required health services, and record-keeping in the areas of student attendance and health, as well as concerns about the overall learning and disciplinary environment of the school. In this regard, I note that Petitioner does *not* dispute the cumulative findings that led to the decision to revoke its charter, but merely seeks an unspecified amount of additional time to correct them while continuing in operation. Under these circumstances, the Assistant Commissioner cannot find that Petitioner is likely to prevail on the merits of its appeal, or that students, parents and staff, who have been on notice of the impending revocation since April 11, 2001, will suffer greater harm by having to make alternative educational and employment arrangements for the next school year than they would by remaining in a school that has proven seriously and persistently deficient, and which faces likely closure, perhaps in the middle of the academic year. Moreover, the Assistant Commissioner does not consider "inconsequential" her obligation to ensure that any charter school permitted to remain in operation is providing a program of the quality to which students are entitled by law, has demonstrated its ability to correct deficiencies in a timely and responsible manner, and is complying with its charter and applicable statute and rule.

Accordingly, the Assistant Commissioner declines to stay the Commissioner's prior decision revoking the charter of the Greenville Community Charter School, effective June 30, 2001, and I direct that closure proceedings continue as previously ordered.

Sincerely,

Margretta Reid Fairweather
Assistant Commissioner

c: Robert Osak, County Superintendent