

304-02L

August 14, 2002

Vernell Patrick, Esq.
1113 Earle Place
Plainfield, New Jersey 07062

Dear Mr. Patrick:

Upon review of the papers filed in the matter entitled *In the Matter of the Revocation of the Charter for the CALLA Charter School, Union County*, Agency Dkt. No. 245-8/02, I have determined to deny the motion for stay, pending appeal to the State Board of Education, of my June 12, 2002 decision to revoke the charter of the CALLA Charter school effective June 30, 2002.

My June 12, 2002 letter detailed a number of long-standing serious deficiencies relating to the school's fiscal solvency, a lack of a fully implemented financial accounting system and the school's failure to provide an adequate repayment schedule for an outstanding IRS liability. After numerous directives and opportunities to effectuate corrective action addressing these deficiencies, as of May 7, 2002, documentation submitted by the school still "did not include a detailed plan to eliminate the school's unsecured long-term IRS liability by June 30[,] evidence that the school would be fiscally viable due to the decreasing enrollment, nor evidence that the school's GAAP accounting system was fully implemented." (June 12, 2002 letter at 2) Consequently, I was left with no viable alternative than to revoke CALLA's charter.

In my consideration of petitioner's request for a stay here I am cognizant that the standards for granting injunctive relief are well-established. The party seeking such relief must demonstrate the existence of each of the following four separate conditions: 1) that in the absence of such a stay, the movant will suffer irreparable injury; 2) that there is a clear probability that the movant will prevail on the merits of the underlying controversy; 3) that the probability of harm to other persons will not be greater than the harm the movant will suffer in the absence of such a stay; and 4) that the public interest will not be adversely affected by such a stay. *See Crowe v. DeGioia*, 90 N.J. 126, 132-134 (1982).

Upon review of petitioner's arguments and supporting documentation, I conclude that a stay of my decision to revoke the charter of the CALLA Charter School would not be appropriate. Specifically, I find that the deficiencies identified in my letter of June 12, 2002 are long-standing, not quickly or easily remediable, and sufficiently serious to preclude the school's

continued operation pending appeal. Moreover, petitioner's submission in support of its request reveals that, other than claiming that it will suffer irreparable harm absent the requested stay because it is "unable to operate at this time so as to recruit new students or maintain [its] current student base" and that it is "unable to commence the necessary fundraising activities and plan various other activities for the upcoming school year" (Certification of Joseph Seay at 2) it fully fails to address the criteria requisite to the relief sought. (*Crowe, supra*) Rather, petitioner's papers support its stay request with a certification of the school's Chief Operating Officer stating that each of the fiscal and operational issues raised in my June 12, 2002 letter of revocation has been addressed and resolved. Notably, I find that petitioner offers no persuasive documentation or factual information, other than this individual's assurances and its own self-generated budget information and balance sheets, that the deficiencies leading to revocation of its charter as set forth in the June 12, 2002 decision have, in fact, been remedied. Under these circumstances, I cannot find that petitioner will likely prevail on the merits of its appeal, or that students, parents and staff, who have been on notice of the impending revocation since June 2002, 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 which has been determined to be in a significant deficit position and fiscally insolvent, and which would still likely face closure, perhaps in the middle of an academic year.

Accordingly, I decline to stay my prior decision revoking the charter of the CALLA Charter School, effective June 30, 2002. Closure proceedings are to continue as previously ordered.*

Sincerely,

William L. Librera, Ed.D.
Commissioner

c: Glenn Tillou, County Superintendent

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*