

SB # 15-01

IN THE MATTER OF THE REVOCATION :
OF THE CHARTER OF THE GREENVILLE : STATE BOARD OF EDUCATION
COMMUNITY CHARTER SCHOOL, : DECISION
HUDSON COUNTY. :

Decided by the Commissioner of Education, April 11, 2001

Decision on motion by the Assistant Commissioner of Education, June 25, 2001

Decision on motion by the State Board of Education, June 27, 2001

For the Appellant, Carpenter, Bennett & Morrissey (Stephen F. Payerle, Esq., of Counsel)

For the Participant Commissioner of Education, Allison Colsey Eck, Deputy Attorney General (John J. Farmer, Jr., Attorney General of New Jersey)

This is an appeal by the Greenville Community Charter School from a determination made by the Commissioner of Education on April 11, 2001 to revoke the School's charter effective June 30, 2001. As set forth in the Commissioner's letter decision, his determination resulted from the School's repeated problems in maintaining a suitable educational facility and its failure to resolve issues related to the School's governance structure and the certification of instructional staff despite repeated directives from the Department of Education. The Commissioner's determination was also based on the results of the program review conducted by Department of Education staff, which revealed that the School had violated provisions of its charter and was not

operating in accordance with State statutes and regulations. In addition, the deficiencies cited by Department staff on the basis of site visits conducted a month after the program review led the Commissioner to conclude that there was no reasonable prospect that the School's Board of Trustees would be able to correct the School's deficiencies even if it were afforded a probationary period.

The Charter School appealed to the State Board of Education, seeking reversal of the Commissioner's determination and the establishment of a limited probationary period to allow the Board of Trustees to address and correct its deficiencies. It also moved to correct the record to reflect that a draft letter dated April 6, 2001 from Anne O'Dea, which was included in the record certified to the State Board as Item 16 under "Correspondence," had never been sent. In addition, the School sought to supplement the record on appeal with various certifications and documents relating to the deficiencies identified by the Commissioner in his April 11 decision and the efforts to correct its deficiencies that have been made by the School since the program review was conducted on March 7, 2001.

By motion filed on July 3, 2001, the Commissioner applied for leave to participate in the matter. The Charter School did not oppose such participation but, on July 16, 2001, filed a letter brief in response to that filed on behalf of the Commissioner.

Initially, we grant leave to the Commissioner to participate in this appeal and, in deciding the matter, have considered both the brief filed on his behalf and the Charter School's response. We also direct correction of the Statement of Items Comprising the Record to reflect that the draft letter listed as Item 16 under "Correspondence" was never sent. Additionally, we grant the Charter School's motion to supplement the record

and have considered the documents and certifications included in the appendix to its appeal brief in making our determination.

Based on exhaustive review of the entire record, we affirm the Commissioner's decision of April 11, 2001. The record before us fully documents the deficiencies cited by the Commissioner and substantiates the seriousness of those deficiencies. Most striking are the ongoing failures of the School to provide an adequate and safe educational facility for the children attending the School, to correct its governance structure to conform to the requirements of law, to secure teaching staff members who possess standard certification appropriate to their assignments, to develop an adequate curriculum that, as their charter application promised, incorporates the core curriculum content standards, or to develop and implement an effective discipline policy. In point of fact, the School does not deny that such deficiencies exist, but rather focuses its appeal on its ability to correct any deficiencies in a reasonable period as demonstrated by its efforts since the March 7 program review.

We reject the School's contention that it can remedy the deficiencies documented by the record before us in a "reasonable" period of time. Nor, under the circumstances, should it be afforded such additional time to attempt to remedy them. In this respect, we cannot ignore that the deficiencies that have been identified are serious and that they are not limited to just one area. In fact, given the nature and gravity of the School's deficiencies over a prolonged period of time, assessment of its efforts at remediation leads inevitably to the conclusion that they have been woefully inadequate. Not only have the fundamental deficiencies of this School persisted, but the record, including the supplemental materials, shows that the School has failed to acknowledge

or comprehend the scope and depth of its problems or their educational implications so as to be able to approach its problems proactively and comprehensively. To the contrary, the “improvements” to which the School has pointed in this appeal well illustrate that the School does not yet understand the import of its failures.

For example, the School argues that it has demonstrated a reasonable prospect of correcting its deficiencies in staff certification since the Commissioner’s determination of April 11, 2001. However, although the School represents that four individuals who taught at the School this past year are at varying stages in pursuing standard certification, the fact remains that only one of its teachers possesses standard certification appropriate to her assignment. Moreover, the School does not appear to recognize even at this point that neither a county substitute certificate nor a Certificate of Eligibility, even with Advanced Standing, is appropriate certification to teach in New Jersey or that a submitting an “application for the emergency hiring” of a registered nurse does not render that individual a Certified School Nurse. See Certifications of Marissa Klein, Nasheca Roberts, Terri Fuchs, Sikirat Alli, Kathleen Ryan, and Bibiana Thomas, Appendix, Volume II, Pa 375-386.

Given the nature and severity of the deficiencies demonstrated by the record, the Commissioner followed the appropriate course in revoking the charter of the Greenville Community Charter School. To have done otherwise in these circumstances would have been to ignore his obligations to ensure the health and safety of New Jersey’s school children and to ensure that those attending the Greenville Community Charter School are provided with a thorough and efficient education. In this regard we stress that in addition to the areas cited by the Commissioner, this School has failed to fulfill

the commitments that it made in its charter application, including its promise to provide each student with an individualized learning plan, and has provided no evidence of increased student performance under any standardized method of measurement. To the contrary, the record reflects that the students were being taught below grade level.

In addition to the significant educational deficits demonstrated by this record, the School's ongoing facilities problems are particularly disturbing. Staff reports of site visits in April indicate ongoing problems regarding the structural soundness of the roof, that the facility was unsanitary, that a broken window in the Kindergarten classroom observed the previous October still had not been fixed, that cleaning products were stored in open boxes outside the students' bathrooms, that wet ceiling insulation was hanging from the ceiling, shelving units were not secured to the wall, the door leading to the electrical room was open, the wheels on the movable partition panels in the Kindergarten section of the main room did not lock. The site visits further revealed an undisciplined and chaotic environment, that there was a total lack of control over the students, and that no learning was taking place. Given this record, it would have been irresponsible for the Commissioner to permit this school to continue to operate.

We reject the School's contention that it should have been provided a probationary period to correct its deficiencies. As previously stated, this record demonstrates severe and ongoing deficits in almost every area. The import of some of the School's deficiencies, particularly those relating to the facility, are obvious and should have been immediately corrected by the School without the necessity of intervention by the Department. Nonetheless, the record documents that from the School's inception, the Department continuously notified the School of those areas in

which there were issues that it needed to resolve, including its governance structure, staff certification, and facilities. To now argue that more time should be afforded to the School to allow it to address its failures in these same areas is disingenuous.

Nor does the law require that a probationary period be afforded to a charter school before revoking its charter. As the Deputy Attorney General representing the Commissioner points out, N.J.S.A. 18A:36A-17 and N.J.A.C. 6A:11-2.4 provide that the Commissioner may place a charter school on probation but do not require that he do so. As indicated, given the circumstances here, we fully concur with the Commissioner's determination not to provide a probationary period in this case.

We also reject the contention that N.J.S.A. 18A:36A-17.1 requires that the Commissioner's determination be set aside. That statutory provision requires that the Commissioner notify the board of trustees or the applicant when he determines that a board of trustees is in jeopardy of losing its charter and requires the board of trustees or the applicant to provide to the Commissioner a complete written list of the names and addresses of all students and staff within forty-eight hours of such notification "so the commissioner may send the appropriate notice to the parents or guardians and staff." N.J.S.A. 18A:36A-17.1. This provision was enacted by the Legislature in response to a conditional veto by the Governor of Assembly Bill 1344, which was an amendment to P.L. 1995, c. 426 relating to the funding and evaluation of charter schools. In his conditional veto, the Governor recommended that because of the vital role played by parents and staff, "the bill [should] specifically authorize the commissioner to direct ...charter schools...to provide him with a list of names and addresses of students and

staff to ensure that these individuals may be promptly notified of a change in the status of an existing charter school....”

As reflected by the terms of the statute, the intent of N.J.S.A. 18A:36A-17.1 is to ensure that parents and staff are promptly notified of a change in status, and the statutory provision does not confer any rights on the charter school that is the subject of such change. Hence, although the Commissioner did not notify the Greenville Community Charter School of the change in its status before revoking its charter, his failure to strictly comply with the terms of N.J.S.A. 18A:36A-17.1 does not provide any basis to set aside his determination in this case.¹

In summary, the record before us clearly and unambiguously shows an educational failure in the extreme and demonstrates that the Board of Trustees of the Greenville Community Charter School has failed since its inception to comply with the requirements of New Jersey law and of its own charter. We find that the School’s failure has been persistent and ongoing despite consistent notification by the Department during the two years of the School’s operation. Given these circumstances and the nature and gravity of the School’s deficiencies, we conclude that the Commissioner’s determination to revoke its charter was the appropriate one, and we therefore affirm that determination.

August 1, 2001

Date of mailing _____

¹ We note that in his letter decision of April 11, 2001, the Commissioner did direct the School to submit to him a list of all parents and staff so that he could comply with the statute’s mandate that he promptly notify them of the change in the School’s status. We further note that there is no indication that he failed to fulfill his obligation to do so.