

June 27, 2001

Stephen F. Payerle, Esq.
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Three Gateway Center
100 Mulberry Street
Newark, NJ 07102-4079

Re: IN THE MATTER OF THE REVOCATION OF THE CHARTER OF THE
GREENVILLE COMMUNITY CHARTER SCHOOL, STATE BOARD
DOCKET #15-01

Dear Mr. Payerle:

On April 11, 2001, the Commissioner of Education notified the Board of Trustees of the Greenville Community Charter School that because the School was not operating in compliance with its charter, statutes and regulations, he was revoking the School's charter effective June 30, 2001.

On May 14, 2001, counsel for the Board of Trustees filed a notice of appeal to the State Board of Education. That appeal is currently pending before the State Board.

On May 23, 2001, counsel filed a motion nunc pro tunc with the Commissioner of Education seeking a stay of his April 11 determination. While that motion was pending, counsel filed an application for emergent relief with the State Board seeking to stay the Commissioner's determination.

By letter decision of June 25, 2001, an Assistant Commissioner acting on behalf of the Commissioner pursuant to N.J.S.A. 18A:4-22(d) declined to stay the Commissioner's decision, finding that the Board of Trustees had not shown that it was likely to prevail on the merits of its appeal to the State Board. The Assistant Commissioner noted that the Board of Trustees does not dispute the cumulative findings that led to the revocation of the charter and stressed that students, parents and staff had been on notice of the revocation since April 11, 2001. Given the

circumstances, the Assistant Commissioner could not find that students, parents and staff would suffer greater harm from the necessity of making alternative arrangements for the next school year than they would from remaining in a school that has been seriously and persistently deficient and which would continue to face likely closure.

By facsimile transmission of June 25, counsel for the Board of Trustees indicated to us that the Board of Trustees is continuing to pursue its application to the State Board for emergent relief. As set forth in its moving papers, the Board of Trustees is arguing that a stay of the revocation should be granted because the School has made progress in correcting its deficiencies since the on-site visit by Department of Education staff on March 7, 2001. The Board of Trustees contends that this progress demonstrates a reasonable likelihood that, if given a chance, the School will be able to correct its deficiencies.

After careful review of the moving papers, we find that the Board of Trustees has failed to demonstrate that it is entitled to emergent relief under the standard set forth in Crowe v. De Gioia, 90 N.J. 126 (1982).¹

The Commissioner's determination of April 11, 2001 indicates that the March 7 on-site visit was not the first visit to the Greenville Community Charter School and that the School's problems persisted despite site visits on June 28 and October 20, 2000. As set forth in the Assistant Commissioner's decision, as well as in the Commissioner's April 11 determination, the School's deficiencies were in the areas of educational programming, staff certification, the provision of required health services, and the maintenance of student records. Significantly, the Commissioner's April 11 decision specifies that the school had not made reasonable progress in developing its curriculum and had failed to provide statutorily-required course work. As the Assistant Commissioner observed, the Board of Trustees does not dispute these findings. Nor does it argue that it has corrected the deficiencies at this point. Rather, by its application, it is seeking additional time to address them.

We concur with the Assistant Commissioner that the Board of Trustees has not demonstrated the likelihood that it will prevail in its appeal. Moreover, the brief submitted in support of the Trustees' application for emergent relief indicates that, even at this point, only one of the School's five teachers possesses standard certification and its curriculum is not yet developed. Permitting the School to continue to operate while its appeal is pending would delay the necessity for students, parents and staff to make other arrangements for the upcoming school year. Under the circumstances, this would create an unacceptable risk of harm, especially to the students. We find that the harm to the students, parents and staff if we were to grant a stay is of such character as to far outweigh any harm to the Board of Trustees that might result from our denial of a stay.

¹ Pursuant to N.J.A.C. 6A:4-3.3, "[t]he President of the State Board or, in the President's absence, the chairperson of the Legal Committee is authorized to decide on behalf of the State Board applications for emergency relief...unless the determination would constitute the final decision with respect to the controversy."

Accordingly, for the reasons stated, we deny the application for emergent relief.

Sincerely,

Maud Dahme, President
State Board of Education

Ronald K. Butcher, Chairperson
Legal Committee of the State Board

c: Members, State Board of Education
Robert Osak
Audrey Kerrigan
Michelle Miller
Roslynne Novack