IN THE OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF: ALLSPORT ACADEMY, a non-profit corporation, operating ALLSPORT ACADEMY, a charter school	**No. 13F-FSRV-001-BCS** **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: September 3, 2013, with the record held open until October 8, 2013

APPEARANCES: Allsport Academy was represented by Raquel Montoya, one of its directors; the Arizona State Board for Charter Schools was represented by Assistant Attorney General Kim S. Anderson

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

Allsport Academy holds a charter sponsored by the Arizona State Board for Charter Schools. Allsport was determined by the Arizona Department of Education to be an F rated school. Consequently, the Board was required to either take action to restore Allsport's charter school to acceptable performance or to revoke the charter school's charter.

Allsport submitted to the Board a Demonstration of Sufficient Progress, but the Board's staff determined that Allsport did not demonstrate it was meeting the Board's expectations. At a Board meeting on May 13, 2013, the Board determined that Allsport's charter should be revoked.

Allsport requested a hearing, which led to this matter being heard. The preponderance of the evidence shows that Allsport's charter should be revoked.

FINDINGS OF FACT

1. On June 18, 2013, the Board issued a Notice of Hearing setting the above-captioned matter for a hearing beginning on September 3, 2013, at the Office of Administrative Hearings in Phoenix, Arizona.

2. The Notice of Hearing provided that the hearing was to determine whether grounds exist to revoke the charter held by non-profit corporation Allsport Academy ("Allsport") to operate a school also known as Allsport Academy (the "School").

3. The Board presented the testimony of Martha Morgan, Director of Charter Accountability; Lisa Weisberg, Education Program Specialist; and Andrea Leder, Government and Financial Services Manager.

4. Allsport presented the testimony of Raquel Montoya, one of its Directors, and Joanne Vigilant, the School's principal. Thier testimony did not directly address the reasons for which the Board intends to revoke Allsport's charter.

5. Allsport operates the School pursuant to a contract or charter with the Board. The School is located in Tucson and serves grades 5 through 9. For the 2013/2014 academic year, 52 students were enrolled at the School.

6. Moses Montoya is Allsport's charter representative.

7. The School is located in Tucson and serves grades 5 through 9. The School is a "priority school" that targets economically disadvantaged children and is eligible for Title 1 funding.

8. During the 2012/ 2013 school year there were 100 students; as of August 2013, there were 52.

The Department of Education's Achievement Profile

9. The Arizona Department of Education (the "Department") prepares an annual achievement profile for schools in the state.

10. Currently, the Department rates schools using letter grades, but it has previously given descriptive ratings. For the 2010/2011 school year descriptions and letter grades were both used.

11. The letter grades range from A through D, with D signifying a below average school. Schools that receive a D rating three years in a row are considered to be failing, and are given an F rating.

12. In the fall of 2010, the School was designated as underperforming for the 2009/2010 school year, which corresponds to a D rating under the current system.

13. In the fall of 2011, the School was again designated as underperforming and given a D rating for the 2011/2012 school year.

14. In the fall of 2012, the Department gave the School an F rating.[1]

15. In a letter dated October 29, 2012, the Department informed the Board that the School had been given the F rating.

16. Because the School has an F rating, the Board was required to either take action to restore the charter school to acceptable performance or to revoke Allsport's charter.

The Board's Academic Framework

17. The Board has adopted an "academic framework" that defines the performance expectations for charter schools. The Board will determine whether a school is meeting these expectations by comparing the school's academic performance to the standards set out in the academic framework.

18. For a school that is not meeting these expectations, the Board will use the academic framework to determine whether the school is making progress toward achieving the expectations.

19. For a charter school that the Department has designated as failing, if the school does not show that it is making significant progress toward meeting the Board's expectations, the charter will be revoked.

20. The Board's academic framework guidelines (Exhibit 4, Appendix D), set out detailed information regarding how a charter holder can show that it has made sufficient progress to avoid having its charter being revoked.

21. In a letter dated January 2, 2013, the Board directed Allsport to submit a Demonstration of Sufficient Progress ("DSP") that would be used by the Board to determine whether the School meets the Board's academic framework.

Indicators of Performance

22. As applicable to the School, the academic framework has three categories or indicators of performance: (1) Student Progress over Time (Growth), which measures how much students learn and improve during a school year; (2) Student

Achievement (Proficiency), which considers the percentage of students who pass the Arizona Instrument to Measure Standards ("AIMS") test; and (3) the Achievement Profile, which is based on the Department's letter grade for the school.

23. Student Growth Percentile ("SGP") measures a school's median student growth for all students. For a school of the Allsport School's size, SGP is considered over a three year period.

24. SGP is also measured for the bottom (or lowest performing) 25th percentile of the students at a school.

25. Proficiency is measured by comparing the percentage of a school's students who pass the AIMS test to the percentage who pass statewide.

26. A second measure of proficiency compares a school's students to a "composite" school that is "created" by aggregating data for students who share the same characteristics as those students in the school at issue.

27. Proficiency for a school is also measured for students in three subgroups: students who qualify for a free lunch ("FRL"), English Language Learners ("ELL"), and disabled students ("SPED").

Allsport's Ratings

28. The information gathered during an academic-framework assessment is presented graphically in a figure known as the "Dashboard." The Dashboard shows results for reading, math, and an overall rating. Only reading and math are considered because these are the only two subjects for which the AIMS test is administered for every grade level.

29. The Board's Exhibit 5 shows the School's Dashboard for the 2011/2012 school year. The School did not "meet the standard" in any category or subcategory and was "far below the standard" in several categories including its overall rating.

30. For growth, the 2011/2012 Dashboard shows that the School fell far below expectations in all measurable categories.

[1] The School's rating for the year was a D, but this was the third D rating in a row.

31. For proficiency, the 2011/2012 Dashboard shows that the School fell far below standard when it students were compared to Allsport's "composite" school. In all other growth categories, the School was rated as does not meet expectations.

32. For achievement, the 2011/2012 Dashboard shows the School's F rating from the Department caused the School to be rated as "falls far below expectations."

33. The 2011/2012 Dashboard shows that the School's overall rating was "falls far below expectations."

34. The Board's Exhibit 22 shows the School's ratings for the 2012/2013 school year. The School did not "meet the standard" in any category or subcategory and was "falls far below the standard" in several categories including its overall rating.

Demonstration of Significant Progress

35. To avoid revocation, a charter holder whose school does not meet the Board's academic framework can submit to the Board a DSP, which is reviewed to determine the school's improvement efforts and to show its progress.[2] The Board looks for evidence of success achieved through any implemented improvement plan, including performance management plans.

36. Evidence of success may be derived from any implemented improvement plan and must be presented using graphs, tables, or data charts that demonstrate with specificity improved academic performance based on data generated from valid and reliable assessment sources.

37. Allsport submitted to the Board a DSP, which included information from a Performance Management Plan ("PMP") covering August 2010 to May 2013.

38. Allsport was initially required to prepare the PMP at the time of a 10-year Board review of the School because the School had not been meeting the Board's expectations at that time.

39. Based on the requirements in the Board's academic framework, Allsport was required to address in its DSP all parts of the Dashboard for which it had been rated did "not meet the standard" or "falls far below the standard."

[2] The term "Demonstration of Significant Progress" is used to describe both the documentation submitted to the Board and the process itself.

40. During the Demonstration of Significant Progress process, on April 25, 2013, Ms. Weisberg and others from the Board conducted a site visit at the School. Raquel Montoya, Moses Montoya, and Justin Montoya were present for Allsport during the site visit.

41. The purpose of the site visit was to review documentation identified in the DSP, and to allow the School to present any additional information about any systems for curriculum, instruction, assessment, and professional development that would demonstrate that students wee making sufficient progress.

42. Prior to the site visit, Allsport was provided a copy of Ms. Weisberg's initial evaluation of the DSP and told what material to have available during the site visit.

43. Allsport provided the Board with documents at the site visit and after the visit, was given an additional 48 hours to submit additional documents to the Board, but Allsport did not do so.

44. Ms. Weisberg evaluated the DSP once before the site visit and then again after the site visit. During the reevaluation, Ms. Weisberg considered what the Board's staff was told during the site visit and additional documentation provided during that visit. In both evaluations Ms. Weisberg applied the criteria defined in Appendix D of the Board's academic framework guidelines.

45. Exhibit 8 is Ms. Weisberg's initial evaluation of the DSP, completed on April 10, 2013, which shows that Allsport scored "not acceptable" in all measures.

46. Ms. Weisberg explained that at the time of the DSP, the School was in its 14th year of operation, but the DSP showed that Allsport was in the beginning stages of developing systems for curriculum instruction, assessment, and professional development, which is not acceptable.

47. In her second evaluation of Allsport's DSP, Ms. Weisberg again found that the DSP was unacceptable in all categories. (Exhibit 9.)

Curriculum

48. Based on the academic framework, Allsport was required to provide a curriculum aligned with the Arizona Academic Standards prescribed by the Department, which are also known as the Common Core Standards ("Standards").

49. The Standards are set by grade level and aligning the curriculum to those standards helps ensure that all students in the state are getting the same educational content. Students are tested on these Standards through the AIMS testing.

50. Allsport was also required to provide curriculum for the bottom 25th percentile of its students, and for each of the FRL, ELL, and SPED subcategories.

51. Allsport did not provide the Board with any curriculum.

52. Although Allsport's DSP shows that it was working with a curriculum consultant, they provided the Board with no documentation to support that claim. During the site visit, Allsport told the Board's staff that it was looking at adopting the curriculum from Tucson Unified School District or Vail's schools.

53. Based on the academic framework, Allsport was also required to show the Board that it was using curriculum maps, pacing guides, and instructional material adoptions or committee work. These tools are used to track and ensure that Standards are being met throughout the year.

54. Curriculum maps provide the sequence in which the Standards are taught to students throughout the school year. Allsport did not demonstrate that it was using curriculum maps.

55. Pacing guides provide the time frame in which the Standards are taught, and are used to ensure that all of the Standards are covered throughout the year. Allsport did not demonstrate that it was using pacing guides.

56. Instructional material adoption and committee work refers to a process where the charter holder's staff makes curriculum and instructional recommendations and revisions as necessary. Allsport did not demonstrate that it was using instructional material adoption and committee work.

57. Rather than providing teachers with curricula or pacing guides, Allsport left it up to the School's teachers to create their own.

Lesson Plans

58. Allsport was required to provide the Board with lesson plans aligned to the Standards for each grade.

59. Although Allsport submitted some lesson plans, these plans did not meet the academic framework's requirements.

60. Allsport submitted eight language arts lesson plans (Exhibit 12A), five of which were for the 6th grade; the other three did not identify the grade level, and one was actually a math lesson plan.

61. Allsport submitted lesson plans for math, but did not provide one for the 6th grade and the 5th lesson grade plan did not address the correct Standard.

62. Of these lesson plans, only the 6th grade language arts plan had clear performance objectives aligned to the Standards. The lessons plans were also missing learning activities and assessments aligned to the Standards

63. Although Allsport submitted lesson plans for those students in the bottom 25th percentile (Exhibit 12C), these lesson plans did not meet the requirements because there were no clearly identified standards and no learning activities aligned to the Standards. There was also no assessment or data to show that these interventions were appropriate for these students.

64. Allsport did not provide the Board with any lesson plans for the ELL, FRL, or SPED subcategories of students.

65. Allsport's PMP shows that students in grades 5 through 9 would be using a literature set starting the year after the PMP was prepared, but Allsport did not show during the site visit or in the DSP that any grade was actually using a literature set.

66. Allsport did not demonstrate that it had a system to create and implement a curriculum aligned to the Standards such that there would be growth for all its students or for those students in the bottom 25th percentile.

67. Allsport did not demonstrate that it had a system to create and implement a curriculum aligned to the Standards that would contribute to, or increase proficiency on the AIMS test for any category or subcategory of students.

Integration of the Standards

68. Based on the Board's academic framework, Allsport was required to show that it had a plan to monitor integration of the Standards into its instruction.

69. As such, Allsport was required to provide the Board with lesson plan reviews, formal teacher evaluations, effective informal classroom observations, standards checklists, and standards-based teacher assessments. These tools are used to ensure that the instruction being provided to students is aligned with the Department's Academic Standards.

70. Lesson plan reviews should be conducted by the charter school's administration to ensure that the Standards are included and that the learning activities are aligned to the Standards. Allsport did not demonstrate that it was conducting lesson plan reviews.

71. Formal teacher evaluations should be completed by a charter school administrator to provide quantitative feedback to its teachers about their work.

72. Although Allsport indicated that it had a tool (Summative Teacher Evaluation Rubric) for formal teacher evaluations, as of the April 15, 2013 site visit, Allsport was not using that tool.

73. Although Allsport told the Board's representatives that classroom monitoring was regularly conducted beginning in November 2012, Allsport could provide no documentation for any month before February 2013, because it had lost the documentation for the earlier months.

74. The forms Allsport was using for the teacher evaluations failed to identify the Standard and/or objective being observed, and Ms. Weisberg's opinion was that any discussion about the classroom observations was not directly related to what had been observed in the classroom.

75. Allsport did not demonstrate that it had in place a system to monitor the School's teachers' integration of the Standards into their math and reading instruction for contributing to student growth for either all students or for those students in the lowest 25th percentile.

76. Allsport did not demonstrate that it had in place a system to monitor the School's teachers' integration of the Standards into their math and reading instruction

for contributing to student proficiency on AIMS for any category or subcategory of students.

Assessment System

77. Based on the Board's academic framework, Allsport was required to describe in its DSP a comprehensive assessment system based on clearly defined performance measures aligned with the curriculum that included data from multiple assessments, benchmark assessments, and data review teams.

78. These assessments provide periodic checks on how well students are mastering the Standards and provide information about the areas/standards in which weak students require more instruction and can reveal opportunities for stronger students to gain enrichment.

79. The School used the AIMS practice test for its Language Arts assessments and Star Math for the math assessments.

80. The AIMS practice test is not an appropriate assessment tool because it is the same test administered multiple times (three times in this case). This then tests the students' ability to recall the content of that test, rather than their ability to learn concepts.

81. The PMP shows that Allsport was going to start using the Study Island program to assess students beginning in 2010 and that the assessments would be done every two to three weeks. Allsport did not actually start using Star Island until March 2013, at which time it was used only for reading and was administered as a pretest, not as an assessment tool. As used by Allsport, the Study Island program did not allow for the student growth to be measured.

82. Although Allsport's PMP shows that it intended to use Star Math beginning in 2011/2012, Allsport had no data for years prior to 2012/2013.

83. Ms. Weisberg found that the math assessment data was not reliable because the same students had not participated in all rounds of the assessment. That is to say, the initial data includes students who were not tested in later rounds and the later data includes results from students who were not tested in the initial round(s).

84. Allsport also did not show that it was collecting data from multiple sources (except Study Island pretest). Allsport also did not demonstrate that the data it was collecting was being used to "inform instruction" (i.e., that they were used to reteach students who are weak in a subject or to allow advanced students the opportunity for enrichment).

85. Allsport did not demonstrate that it had a comprehensive assessment system for reading or for math.

Professional Development

86. Based on the Board's academic framework, Allsport's DSP was required to include a narrative showing that it has a comprehensive professional development plan for its teachers that is aligned with its teachers' learning needs.

87. A professional development plan is designed to ensure that teachers are learning new skills and that these skills are being implemented in the instruction provided to students.

88. Allsport provided information related to its professional development plan, but this information did not meet the requirements of the Board's academic framework because (1) the professional development plan was not shown to be aligned with the teachers' learning needs; and (2) Allsport did not demonstrate that it was conducting follow-up monitoring or that the professional development was contributing to student proficiency in math or reading.

Financial Performance Issues

89. Mr. Montoya told members of the Board's staff that many of the plans set out in Allsport's PMP had not been implemented because Allsport's financial situation had prevented their implementation.

90. The Board has a financial performance framework that is set up in a similar fashion to that of the Board's academic framework.

91. The financial framework is the mechanism the Board uses to evaluate a charter school's near term financial health and its long term sustainability.

92. The financial framework was developed to communicate the Board's financial performance expectations and to help meet the Board's objective that all charter holders are viable organizations with strong fiscal management practices.

93. The Board believes that the financial performance framework is important because a charter school's ability to comply with the law can be affected by the school's financial health.

94. The Board's financial framework utilizes seven measures of financial performance: (1) going concern; (2) unrestricted days cash; (3) default; (4) total liabilities to equity ratio; (5) net income; (6) cash flow; and (7) fixed charge coverage ratio.

95. The information required for the financial framework is derived from a charter school's annual audits, which are required to be conducted by independent certified public accountants.

96. When considering a charter school's financial performance, the Board looks at the last three years so that the current year's data can be viewed in context.

97. For Allsport, the Board considered financial information from fiscal years 2010, 2011, and 2012.

98. Allsport's annual audits were conducted on a "going concern" basis, which is the idea that an organization will continue to engage in its activities for the foreseeable future. In the fiscal year 2012 audit, the auditors found that there was substantial doubt as to whether Allsport could continue as a going concern; similar concerns were raised in the 2010 and 2011 audits.

99. Allsport was found to fall far below the Board's expectations with regard to going concern.

100. Unrestricted days cash looks at the number of days a charter holder can cover its expenses without an additional influx of money.

101. To meet the standard for unrestricted cash on hand, a charter school must have sufficient cash on hand to cover at least 30 days of operating expenses.

102. For fiscal year 2012, Allsport had 18.09 days of unrestricted days of cash, which is a fails to meet the standard rating. Allsport also fell far below the standard for unrestricted days of cash in fiscal years 2010 and 2011.

103. "Total liabilities to equity ratio" shows the level to which a charter holder is relying on outside funding, such as loans.

104. Allsport has had negative total liabilities to equity ratio for the past three fiscal years, suggesting that Allsport may not be generating enough cash through its operations to meet its obligations.

CONCLUSIONS OF LAW

1. The Board bears the burden of proving by a preponderance of the evidence that grounds exist to revoke Allsport's charter and that revocation was appropriate under the facts and circumstances. *See* A.R.S. § 41-1092.07(G)(2); A.R.S. § 15-183(I)(3).

2. The standard of proof on all issues in this matter is that of a preponderance of the evidence. A.A.C. R2-19-119.

3. A preponderance of the evidence is "[e]vidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).

4. If a charter school is assigned a letter grade of F, the Department of Education shall immediately notify the charter school's sponsor. The charter school's sponsor shall either take action to restore the charter school to acceptable performance or revoke the charter school's charter. A.R.S. § 15-241(U).

5. The Board has authority to revoke Allsport's charter if Allsport is not make sufficient progress toward the academic performance expectations set forth in the Board's academic performance framework. A.R.S. § 15-183(I)(3).

6. Allsport's School has been assigned the letter grade of F, consequently if it cannot be restored to acceptable performance, the Board must revoke Allsport's charter.

7. The overwhelming weight of evidence shows that Allsport is not meeting the requirements of Board's academic framework and that Allsport did not meet the Board's requirements to make a Demonstration of Significant Progress.

8. The preponderance of the evidence also shows that Allsport's financial status is poor and that the Allsport's poor financial condition has already negatively affected Allsport's ability to meet its obligations as a charter school.

9. The preponderance of the evidence also shows that Allsport has failed to make sufficient progress toward the academic performance expectations set forth in the Board's academic framework.

10. Consequently, the Board has met the burden to show that grounds exist to revoke Allsport's charter and that revocation is the appropriate sanction.

ORDER

IT IS ORDERED that Allsport Academy's charter is revoked.

In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order is five days after the date of that certification.

Done this day, October 23, 2013.

/s/ Thomas Shedden
Thomas Shedden
Administrative Law Judge

Transmitted electronically to:

DeAnna Rowe, Executive Director
State Board for Charter Schools