BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

RECEIVED
JUN 18 2013
O.A.H.

In the Matter of:	No. 13F-FSRV-001-BCS
ALLSPORT ACADEMY, a non-profit corporation, operating **ALLSPORT ACADEMY,** a charter school	**ARIZONA STATE BOARD FOR CHARTER SCHOOLS' NOTICE OF INTENT TO REVOKE CHARTER AND NOTICE OF HEARING** (Honorable Thomas Shedden)

YOU ARE HEREBY NOTIFIED that pursuant to A.R.S. §§ 15-241(U) and 15-183(I) and (Q) and Title 41, Chapter 6, Article 10, a charter revocation hearing will be held in the above-captioned matter on **September 3 and 4, 2013**, beginning at 8:00 a.m. **This matter is set from 8:00 a.m. to 5:00 p.m.** The hearing will be held before Administrative Law Judge Thomas Shedden at the Office of Administrative Hearings, an independent state agency, located at 1400 West Washington, Suite 101, Phoenix, Arizona 85007, (602) 542-9826.

The hearing is to determine whether grounds exist to revoke the charter held by Allsport Academy to operate Allsport Academy.

I. STATEMENT OF LEGAL AUTHORITY AND JURISDICTION UNDER WHICH THE HEARING IS TO BE HELD AND REFERENCE TO THE STATUTES AND RULES INVOLVED.

Charter schools are established by contract ("charter" or "contract") between a sponsor and a public body, private person or private organization to provide learning that will improve pupil achievement. A.R.S. §§ 15-101(4), -181(A), -183(B), -183(C). The Arizona Department of Education ("ADE") compiles an annual achievement profile for each public school and school district. A.R.S. § 15-241(A). The achievement profile used to determine a school and school

district classification uses a letter grade system as follows: (1) A school or school district assigned a letter grade of A shall demonstrate an excellent level of performance; (2) A school or school district assigned a letter grade of B shall demonstrate an above average level of performance; (3) A school or school district assigned a letter grade of C shall demonstrate an average level of performance; (4) A school or school district assigned a letter grade of D shall demonstrate below average level of performance; and (5) A school or school district assigned a letter grade of F shall demonstrate a failing level of performance. A.R.S. § 15-241(H)[1]. If a charter school is assigned a letter grade of F, the charter school's sponsor must either take action to restore the charter school to acceptable performance or revoke the charter school's charter. A.R.S. § 15-241(U). In implementing its oversight and administrative responsibility for the charter schools that it sponsors, the sponsor shall ground its actions in evidence of the charter holder's performance in accordance with the performance framework adopted by the sponsor. A.R.S. § 15-183(R). A sponsor shall review a charter at five year intervals using a performance framework adopted by the sponsor and may revoke a charter at any time if the charter school breaches one or more provisions of its charter or if the sponsor determines that the charter holder has failed to meet or make sufficient progress toward the academic expectations set forth in the performance framework. A.R.S. § 15-183(I)(3). The final determination of whether to revoke the charter shall be made at a public hearing called for such purpose. *Id.*

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[1] Prior to September 1, 2011, the achievement profiles used to determine a school classification designated schools as one of the following: (1) an excelling school; (2) a highly performing school; (3) a performing school; (4) an underperforming school; and (5) a school failing to meet academic standards ("legacy label"). A.R.S. § 15-241(H)(2011). For academic year 2010-2011, schools were designated a legacy label and a letter grade. A.R.S. § 15-241(H)(2011), amended by 2012 Ariz. Sess. Laws, 2nd Reg. Sess., ch. 67, sec. 3.

II. STATEMENT OF MATTERS ASSERTED BY THE BOARD

1. Allsport Academy ("School") is a charter school established pursuant to A.R.S. § 15-181 and sponsored by the Arizona State Board for Charter Schools ("Board").

2. The School operates pursuant to a charter contract ("charter" or "contract") between Allsport Academy, a non-profit corporation of the same name ("Allsport"), organized under the laws of the State of Arizona, and the Board.

3. The School began operating in the 2003-2004 school year and is currently authorized to serve students in grades 5 - 9.

4. The School is located in Tucson and reported an average daily membership of approximately 100 students for the 2012-2013 school year.

5. On May 13, 2013, the Board voted to revoke Allsport's charter to operate the School on the basis of the School's 2011-2012 achievement profile designation as an F school, its failure to meet or demonstrate sufficient progress toward the Board's performance expectations as set forth in the Board's Academic Performance Framework when it failed to provide evidence of a curriculum aligned to the Academic Standards, failed to provide a systematic process for monitoring and recording the implementation of the Academic Standards in instruction, failed to provide a comprehensive assessment system based upon clearly defined performance measures aligned with the curriculum, and failed to provide a comprehensive professional development plan aligned to teacher needs, and, additionally, its failure to implement its Performance Management Plan and its lack of financial capacity to improve academic performance.

A. FOR THE 2011-2012 SCHOOL YEAR, ALLSPORT WAS ASSIGNED AN ACHIEVEMENT PROFILE LETTER GRADE OF "F"

6. On July 28, 2010, the 2009-2010 achievement profile assigned to the School was "an underperforming school".

7. On September 1, 2010, as part of its five-year interval review, Allsport submitted a Performance Management Plan that identified the steps it would implement to improve the academic achievement of students attending the School.

8. On September 8, 2011, the 2010-2011 achievement profile assigned to the School was "an underperforming school" and a letter grade of "D".[2]

9. On August 2, 2012, the 2011-2012 achievement profile assigned to the School was a letter grade of "F," demonstrating a failing level of performance.

10. On October 29, 2012, ADE notified the Board that the School was assigned a letter grade of "F".

11. In a letter dated January 2, 2013, in accordance with the Board's processes and based on the School's performance in FY 2012, Allsport was notified of its requirement to submit a Demonstration of Sufficient Progress as an annual report for schools on a Performance Management Plan which did not meet the Board's academic performance expectations. Allsport was also notified that the determination by the Board of whether to restore or to revoke Allsport's charter would be based on the evidence of Allsport's performance in accordance with the performance framework adopted by the Board, including Allsport's submission of demonstration of sufficient progress toward the academic performance expectations of the Board.

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[2] For academic year 2010-2011, schools were designated a legacy label and a letter grade. A.R.S. § 15-241(H)(2011), amended by 2012 Ariz. Sess. Laws, 2nd Reg. Sess., ch. 67, sec. 3.

B. ALLSPORT FAILED TO MEET THE BOARD'S ACADEMIC PERFORMANCE EXPECTATIONS

12. In administering its oversight and administrative responsibilities for the charter schools that it sponsors, the Board is required to ground its actions in evidence of the charter holder's performance in accordance with the performance framework adopted by the Board. A.R.S. § 15-183(R).

13. The Board's performance framework ("academic framework" or "Academic Performance Framework") includes the academic performance expectations of the charter school and the measurement of sufficient progress toward the academic performance expectations, and the intervention schedule for improvement. A.R.S. § 15-183(R)(1).

14. For elementary schools, the Board's academic framework weights each measure within three indicators to calculate each charter school's overall academic performance: (1) student progress over time (growth); (2) student achievement (proficiency); and (3) the assigned letter grade achievement profile.

15. The charter school's overall level of performance is established as follows:

- *Exceeds standard* - The charter holder's overall rating for each school operated by the charter holder exceeds academic performance expectations and shows exemplary performance.
- *Meets standard* - The charter holder's overall rating for each school operated by the charter holder meets minimum expectations for academic performance.
- *Does not meet standard* - The charter holder's overall rating for any school operated by the charter holder fails to meets minimum expectations for academic performance.

- *Falls far below standard* - The charter holder's overall rating for any school operated by the charter holder is far below the Board's academic performance expectations and on par with the lowest-performing schools in the state.

16. A charter holder that has one or more schools that did not receive an overall rating of "Meets Standard" or "Exceeds Standard" does not meet the Board's academic performance expectations.

17. Allsport's overall level of performance for its 2011-2012 academic year (also known as "FY 2012") was "Falls Far Below Standard" and, as a result, Allsport failed to meet the Board's academic performance expectations.

C. ALLSPORT FAILED TO DEMONSTRATE SUFFICIENT PROGRESS TOWARD THE BOARD'S ACADEMIC PERFORMANCE EXPECTATIONS

18. A charter holder that does not meet the Board's academic performance expectations may demonstrate sufficient progress toward the academic performance expectations of the Board.

19. A charter holder demonstrates its progress by submitting a Demonstration of Sufficient Progress ("DSP") detailing its previous efforts to improve academic performance in each of the measures rated or identified in the current dashboard[3] as not meeting the Board's expectations (where the measure was rated "No Rating," "Does Not Meet Standard," or "Falls Far Below".

20. Evidence of success (or progress) may be derived from any implemented improvement plan and must be presented using graphs, tables or data chart that demonstrate, with specificity,

[3] A dashboard is color-coded graphic of a charter school's academic performance and includes a rating for each measure and an overall rating for the charter school pursuant to the Board's Academic Performance Framework. (*See* page 22 of Academic Framework).

improved academic performance based on data generated from valid and reliable assessment sources[4].

21. The charter holder's DSP is evaluated to determine whether its efforts in each of the measures rated or identified as "Does Not Meet Standard" or "Falls Far Below Standard" in the current or prior year[5] document the implementation of an improvement plan that demonstrates evidence of success.

1. <u>STUDENT PROGRESS OVER TIME (GROWTH)</u>

22. Allsport failed to demonstrate its implementation of a sustained improvement plan that includes evidence that the School is making adequate growth[6] based on the school's median growth percentiles ("SGP") in Math and Reading both School-wide and for the lowest performing (bottom 25%) of students .

23. Allsport failed to demonstrate that the School implemented a system to create, implement, evaluate and revise curriculum aligned to the Arizona Academic Standards that contributes to increased student growth in Math and Reading both School-wide and for the lowest performing (bottom 25%) of students .

24. Allsport failed to demonstrate a system to monitor the integration of the Arizona Academic Standards into instruction for Math and Reading that contributes to increased student

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[4] A valid assessment measures what it is intended to measure. A reliable assessment would produce the same results when given under the same conditions.

[5] Overall Ratings have been calculated using fiscal year 2012 data. Until the fiscal year 2013 data is available, the Board will consider the current overall rating for each school operated by the charter holder in evaluating whether or not the charter holder meets the Board's academic performance expectations. (*See* footnote 3, page 15 of Academic Framework).

[6] At least half of the students in the charter school are showing growth that is greater than their academic peers across the state. (*See* page 7 of Academic Framework).

growth in Math and Reading both School-wide and for the lowest performing (bottom 25%) of students.

25. Allsport failed to demonstrate a comprehensive assessment system for Math and Reading based on clearly defined performance measures aligned with the curriculum and instructional methodology that includes data collection from multiple assessments that contributes to increased student growth in math and reading both School-wide and for the lowest performing (bottom 25%) of students.

26. Allsport failed to demonstrate the implementation of a professional development plan aligned with teacher learning needs that contributes to increased student growth in math and reading.

2. STUDENT ACHIEVEMENT (PROFICIENCY)

27. Allsport failed to demonstrate its implementation of a sustained improvement plan that includes evidence that the School is increasing its proficiency rates on the state assessment in Math and Reading overall and by subgroups[7] to be on par with corresponding statewide average proficiency rates.

28. Allsport failed to demonstrate that the School implemented a system to create, implement, evaluate and revise curriculum aligned to the Arizona Academic Standards that contributes to increased student proficiency on the state assessment in Math and Reading or to increased student proficiency to expected performance levels on the state assessment in Math and Reading for subgroups.

29. Allsport did not demonstrate a system to monitor the integration of the Arizona Academic Standards into instruction for Math and Reading and to evaluate the instructional

[7] "Subgroups" are English Language Learner students ("ELL"), Free and Reduced Lunch eligible students ("FRL"), and students with disabilities as compared to similar schools.

practices of the Math and Reading teachers that contributes to increased student proficiency in Math and Reading or to increased student proficiency to expected performance levels in Math and Reading for subgroups.

30. Allsport failed to demonstrate a comprehensive assessment system for Math and Reading based on clearly defined performance measures aligned with the curriculum and instructional methodology that includes data collection from multiple assessments that contributes to increased student proficiency in Math and Reading or to increased student proficiency to expected performance levels in Math and Reading for subgroups.

31. Allsport failed to demonstrate the implementation of a professional development plan aligned with teacher learning needs that contributes to increased student proficiency in Math and Reading or to increased student proficiency to expected performance levels in Math and Reading for subgroups.

32. Allsport's DSP failed to document the implementation of an improvement plan that demonstrates success and, as a result, it failed to demonstrate sufficient progress toward the Board's academic performance expectations.

D. ALLSPORT FAILED TO MEET THE BOARD'S FINANCIAL PERFORMANCE EXPECTATIONS

33. The Board's Financial Performance Framework ("financial framework") uses seven measures to gauge a charter holder's near-term financial health and longer term financial sustainability: (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.

34. Because financial health can affect a charter holder's ability to meet the obligations of its charter contract and applicable laws, a charter holder's financial performance is also reviewed

when the Board makes decisions related to a charter holder's academic and/or operational performance.

35. For each measure a charter holder receives one of three ratings based on whether the charter holder met the target.

- *Meets Standard - The charter holder's performance on this component does not signal a financial risk to the charter holder and meets the Board's expectation. Meeting the standard requires no follow up action by the Board.*
- *Does Not Meet Standard - The charter holder's performance on this component signals a moderate financial risk to the charter holder and does not meet the Board's expectation. This indicator may require follow up depending on the interplay with other indicators. Charter holders may also be limited in their ability to expand their operations. Charter holders not meeting the standard across more than one area are required to submit additional information as part of a five-year interval review and renewal. Not meeting the standard may have an adverse impact on the consideration of the renewal application package or at other times when disciplinary action is considered.*
- *Falls Far Below Standard - The charter holder's performance on this component signals a potentially significant financial risk to the charter holder and is far below the Board's expectation. Falling far below the standard may have an adverse impact on the consideration of the renewal application package or at other times when disciplinary action is considered. Charter holders are required to submit additional information as part of a five-year interval review and renewal. Charter holders may be limited in their ability to expand their operations.*

36. Allsport scored a "Falls Far Below Standard" for the near-term indicator of "Going Concern" when the independent auditors' report on the fiscal year 2012 financial statements and the notes to the audited fiscal year 2012 financial statements included a going concern[8] disclosure, indicating the auditor has concerns about Allsport's viability. A charter holder in this situation may have difficulty meeting academic and operational obligations required under law and its charter contract.

37. Allsport scored a "Falls Far Below Standard" for the "Sustainability Indicator" of "Total Liabilities to Equity Ratio" when calculations made based on the fiscal year 2012 audited statement of financial position provided in the audit reporting package indicated Total Liabilities to Equity Ratio is a negative 1.12. The ratio shows the level to which the charter holder is relying on outside funding, such as loans. A charter holder with a negative ratio may not be able to generate enough cash from operations to satisfy its obligations.

38. Allsport scored a "Does Not Meet Standard" for the near-term indicator of "Unrestricted Days Cash" when calculations made based on the fiscal year 2012 audited statement of financial position, audited statement of activities and changes in net assets, and compliance questionnaire provided in the audit reporting package indicated Allsport had 18.09 days cash on hand. In the event of unforeseen circumstances (e.g., unexpected costs, changes to State funding), 30 days of cash would help the charter holder make payroll, pay the rent, and keep the charter school's doors open until the charter holder receives its next State equalization payment or until other funding is secured. If a charter holder has fewer than 15 days cash on hand, should unforeseen

[8] "Going concern" is the idea that an organization will continue to engage in its activities for the foreseeable future. If the auditor doubts that the organization will exist for at least the next year, the independent auditors' report would include a paragraph indicating this, as was the case for Allsport.

circumstances arise, the charter holder may have difficulty making its next payroll and meeting other obligations before receiving its next influx of cash.

39. Allsport advised Board staff that the reason it did not implement its Performance Management Plan was because of limited financial resources.

III. ORDER

YOU ARE HEREBY NOTIFIED that, based on the foregoing, and pursuant to A.R.S. §§ 15-241(U) and 15-183(I)(3), this Notice of Intent to Revoke Charter and Notice of Hearing serves as Allsport and the School's official written notice of the Board's intent to revoke the charter of Allsport Academy to operate the School.

YOU ARE FURTHER NOTIFIED that the Office of Administrative Hearings, on behalf of the Board, will conduct a hearing to determine whether the allegations in the Notice are true and to determine whether grounds exist to revoke the charter of Allsport. The hearing will be conducted, under the authority of, and in accordance with, A.R.S. §§ 15-241(U), 15-183(I)(3), 15-183(Q), and Title 41, Chapter 6, Article 10. After the hearing is concluded, the Administrative Law Judge shall submit a written decision to the Board for review pursuant to A.R.S. § 41-1092.08. The Board shall then decide whether to accept, reject or modify the decision and will issue a final administrative decision accordingly.

YOU ARE FURTHER NOTIFIED that appearance in an administrative proceeding is considered the practice of law, which under most circumstances may only be undertaken by an active member of the Arizona State Bar. Ariz. R. S. Ct. 31(a)(2)(A)(3) and (b). Under Ariz. R. S. Ct. 31(d)(11):

> Unless otherwise specifically provided for in [Ariz. R. S. Ct. 31], in proceedings before the Office of Administrative Hearings, a

> legal entity may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter, such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

IT IS FURTHER ORDERED that as part of the hearing process, pursuant to A.R.S. § 41-1092.06, you have the right to request an informal settlement conference. If you request an informal settlement conference, the Board must hold the conference within fifteen (15) days after receiving the request. This request must be in writing and must be filed no later than twenty (20) calendar days before the hearing. The request for an informal settlement conference shall be in writing and mailed to:

> The Arizona State Board for Charter Schools
> Executive Director DeAnna Rowe
> P.O. Box 18328
> Phoenix, Arizona 85009

IT IS FURTHER ORDERED within forty-eight (48) hours of receipt of this Notice of Intent to Revoke Charter and Notice of Hearing, Allsport shall notify, in writing, all staff and all parents or guardians of students enrolled in the School that a Notice of Intent to Revoke Charter and Notice of Hearing has been received, the School location at which a copy of the Notice may, upon request, be inspected, and the date, time, and location of the hearing set in this matter.

IT IS FURTHER ORDERED that within twenty (20) days of receipt of this Notice, Allsport shall provide to the Board copies of all correspondence and communications used to comply with the preceding provision of this Order above.

IT IS FURTHER ORDERED that within twenty (20) days of receipt of this Notice, Allsport shall provide the Board with the names and mailing addresses of parents or guardians of all students enrolled at the School.

YOU ARE ADVISED that the original of all correspondence and pleadings to be filed in this matter should be directed to the Office of Administrative Hearings, 1400 W. Washington, Suite 101, Phoenix, AZ 85007, with copies to the agency and to the Assistant Attorney General at the addresses listed below.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Office of Administrative Hearings, 1400 W. Washington, Suite 101, Phoenix, AZ 85007, (602) 542-9826. Requests should be made as early as possible to allow time to arrange the accommodation.

DATED this 18 day of June, 2013.

Jake Logan
President
Arizona State Board for Charter Schools
P.O. Box 18328
Phoenix, Arizona 85009

ORIGINAL filed this
18th day of June, 2013 with:

Office of Administrative Hearings
1400 West Washington Street
Phoenix, Arizona 85007

COPIES of the foregoing Notice sent via certified mail,
return receipt requested, this
18th day of June, 2013 to:

Allsport Academy charter school
Attention Charter Representative: Moses Montoya
602 E. Ft. Lowell Road, Bldg. 4
Tucson, AZ 85705

Allsport Academy
Attention Statutory Agent: Raquel Montoya
602 E. Ft. Lowell Road, Bldg. 4
Tucson, AZ 85705

COPIES of the foregoing Notice sent via regular mail this 18th day of June, 2013 to:

Kim S. Anderson
Assistant Attorney General
Civil Division/Education and Health Section
1275 West Washington
Phoenix, AZ 85007

By _____
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