

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of:

4 HILLCREST ACADEMY, INC., an Arizona
5 non-profit
6 corporation, operating
7 HILLCREST ACADEMY, a charter school.

No. 17F-RV-001-BCS

**ADMINISTRATIVE LAW JUDGE
DECISION**

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10 **HEARING:** February 22, 2017, with the record held open until March 9, 2017.

11 **APPEARANCES:** Hillcrest Academy, Inc. did not appear. Kim Anderson, Esq.
12 appeared on behalf of the Arizona State Board for Charter Schools.

13 **ADMINISTRATIVE LAW JUDGE:** Velva Moses-Thompson

14
15 **FINDINGS OF FACT**

16 1. The Arizona State Board for Charter Schools, (hereinafter "Board"), has
17 the statutory authority to execute a Charter Contract authorizing the establishment of
18 charter schools that will "provide a learning environment to improve pupil achievement"
19 and to "provide additional academic choices for parents and pupils." A.R.S. §§ 15-181(A)
20 and 15-183.

21 2. On or about January 18, 2012, the Board entered into a Charter Contract
22 with Hillcrest Academy, Inc., (hereinafter "Hillcrest"). Danielle Connolly executed the
23 Charter Contract on behalf of Hillcrest as its Charter Representative. As the Charter
24 Representative for Hillcrest, Ms. Connolly was responsible for communications between
25 it and the Board.

26 3. The Charter Contract between the Board and Hillcrest also authorizes the
27 Board to revoke the charter for any material breach of the charter and/or violation of state,
28 federal or local laws, ordinances or rules or regulations; or for conditions which threaten
29 the health, safety, or welfare of the students or staff of the School or of the general public.

30 4. Hillcrest became the Charter Operator for Hillcrest Academy, (hereinafter
"School"), with grades K through 8.

1 5. In early June 2016, Hillcrest informed the Board that it was planning to file
2 for bankruptcy.

3 6. On or about June 29, 2016, Hillcrest filed for bankruptcy under Chapter 11
4 of the United States Bankruptcy Code.

5 7. On or before July 15, 2016, Hillcrest submitted an estimated count of 137
6 registered students to attend the School for the 2016-2017 school year to the Arizona
7 Department of Education, (hereinafter "Department").

8 8. Hillcrest was required to submit an estimated count to receive payment of
9 state monies on August 1, 2016.

10 9. Hillcrest submitted its calendar for the 2016-2017 school year. According
11 to the calendar, instruction would begin on August 2, 2016 and end on May 24, 2017.

12 10. On July 31, 2016 at 9:06 p.m., Hillcrest notified the Board by electronic mail,
13 (hereinafter "e-mail"), that it decided to close the School.

14 11. On August 1, 2016, Hillcrest received a payment of state monies in the
15 amount of \$74,547.77.

16 12. On August 1, 2016, the Board notified Hillcrest that it was required to refund
17 the \$74,547.77 payment, because the School closed and it would not be providing
18 instruction to the students for the 2016-2017 school year.

19 13. As of the date of the hearing, Hillcrest had failed to refund the Department.

20 14. On or about August 1, 2016, Hillcrest notified the Board that it converted
21 its bankruptcy to Chapter 7 of the United States Bankruptcy Code.

22 15. Hillcrest failed to provide a comprehensive program of instruction for the
23 requisite number of days for the 2016-2017 school year.

24 16. On August 22, 2016, Board staff met with Hillcrest's Charter
25 Representative to obtain the students' records from the School's facilities. However, the
26 records provided were disorganized. In addition, the student's files did not contain
27 transcripts of final grades, standardized test scores and records related to the education
28 of students with disabilities.

29 17. On September 22, 2016, the Board received additional student records
30 from Ms. Connolly. However, the records were disorganized and failed to contain the

1 transcripts of the students' final grades, copies of the students' standardized test
2 scores, and placement, evaluations and testing data for student with disabilities.

3 18. On February 22, 2017, an evidentiary hearing was conducted before the
4 Office of Administrative Hearings, an independent agency, in this matter. The
5 commencement of the scheduled hearing was delayed approximately 15 minutes to allow
6 for the late arrival of either a representative or an attorney authorized to represent Hillcrest
7 and the School. After the delay, the Administrative Law Judge conducted the hearing in
8 the absence of Hillcrest and the School.

9 **CONCLUSIONS OF LAW**

10 1. The Board has jurisdiction over the subject matter in this case. Pursuant to
11 A.R.S. § 15-183 and the Charter Contract, the Board sponsors Hillcrest to operate one
12 school site in Mesa, Arizona for grades K through 8.

13 2. The Board has the burden of proof in this matter. The standard of proof is
14 a preponderance of the evidence. A.A.C. R2-19-119(A). See A.R.S. § 41-
15 1092.07(G)(2); A.R.S. § 15-183(I)(3); and A.A.C. R2-19-119.

16 3. A preponderance of the evidence is "such proof as convinces the trier of
17 fact that the contention is more probably true than not." Morris K. Udall, Arizona Law of
18 Evidence § 5 (1960).

19 4. The Board established by a preponderance of the evidence that Hillcrest
20 breached its charter and violated A.R.S. §§ 15-183(E)(3) and 15-341.01 when it failed to
21 provide a comprehensive program of instruction for the requisite number of days for the
22 2016-2017 school year.

23 5. The Board established by a preponderance of the evidence that Hillcrest
24 breached its charter and violated A.R.S. § 39-121.01 when it failed to retain the records
25 for each student attending the Academy, as required by the Arizona State Library,
26 Archives and Public Records Division of the Arizona Secretary of State's retention
27 schedules.

28 6. The Board established by a preponderance of the evidence that Hillcrest
29 breached A.R.S. §15-183(E)(7) when it failed to maintain and retain records related to the
30 education of students with disabilities.

1 7. A.R.S. § 15-183(I)(3) permits the Board to revoke Hillcrest's charter for the
2 above described statutory violations and contractual breaches by it. The Board gave
3 Hillcrest at least 60 days written notice of the deficiencies, as required by A.R.S. § 15-
4 183(I)(5), but it did not correct them.

5 8. The evidence demonstrated that Hillcrest failed to cure any of the
6 deficiencies for which a violation of statute and the Charter Contract has been found
7 herein. Such failure is a significant aggravating factor in the determination as to whether
8 revocation is an appropriate remedy.

9 9. Having considered the scope and nature of Hillcrest's violations, and the
10 fact that Hillcrest failed to remedy those deficiencies within the statutorily- prescribed cure
11 period, and having weighted the totality of the evidence of record, the Administrative Law
12 Judge concludes that Hillcrest's charter should be revoked.

13 **RECOMMENDED ORDER**

14 The Charter Contract between the Board and Hillcrest Academy, Inc. shall be
15 revoked on the effective date of the Order entered in this matter.

16 *In the event of certification of the Administrative Law Judge Decision by the*
17 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
18 *five days from the date of that certification.*

19 Done this day, March 29, 2017.

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21 /s/ Velva Moses-Thompson
22 Administrative Law Judge

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24 Transmitted electronically to:

25 DeAnna Rowe, Executive Director
26 State Board for Charter Schools
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