

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF ARIZONA

In the Matter of:) No. 17F-RV-001-BCS

)
HILLCREST ACADEMY, INC., an)
Arizona non-profit corporation,)
operating HILLCREST ACADEMY, a)
charter school.)

HEARING

Phoenix, Arizona
February 22, 2017
8:30 o'clock a.m.

BARTELT REPORTING, LLC
RRF No. 1028
111 W. Monroe Street, Suite 425
Phoenix, Arizona 85003
Prepared by: Phone: (602) 254-4111
DEBORAH J. BOYETTE, CR, RPR Fax: (602) 254-6567
Certificate No. 50507 Bartelt@Qwestoffice.net

1 A HEARING was taken upon oral examination by the
2 parties through their respective attorneys before DEBORAH J.
3 BOYETTE, RPR, a Certified Reporter in the State of Arizona,
4 at the OFFICE OF ADMINISTRATIVE HEARINGS, 1400 West
5 Washington Street, Suite 101, Phoenix, Arizona, on the 22nd
6 day of February, 2017, commencing at 8:30 a.m. of said day.
7 Further, this deposition was taken pursuant to the Arizona
8 Rules of Civil Procedure.
9

10 COUNSEL APPEARING:

11
12 Kim S. Anderson, Esq.
13 ASSISTANT ATTORNEY GENERAL
14 1275 West Washington Street
15 Phoenix, Arizona 85007
16 Attorneys for Arizona State Board for
17 Charter Schools
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1 I N D E X

2
3 WITNESS:
4 ANDREA LEDER PAGE

5
6 Examination by Ms. Anderson 9
7

8 EXHIBITS MARKED

9
10 FOR THE BOARD:

11 Exhibits	Description	Admitted	Page
12 No. 1	Renewal Charter Contract, 1/18/12		9
13			
14 No. 2	Articles of Amendment, 4/19/13		9
15			
16 No. 3	Approval of Charter Holder SAR, 7/25/13		9
17			
18 No. 4	Finance Memorandum 16-056, 6/15/16		9
19			
20 No. 5	School Calendar FY2017		9
21			
22 No. 6	Equalization Assistance Payment Schedule		
23	Detail FY2016-2017		9
24 No. 7	Email from Danielle Connolly to Andrea		
25	Leder, 7/31/16		9
	No. 8	General Records Retention Schedule for	
		School Districts and Charter Schools	9
	No. 9	Summary for 9/12/16 Board Meeting	9
	No. 10	(WITHDRAWN)	
	No. 11	Amended Affidavit of Bianca Ulibarri	9

1 Phoenix, Arizona
2 February 22, 2017
3 8:46 a.m.

4 ADMINISTRATIVE LAW JUDGE: Today is February 22nd,
5 2017. The time is 8:46 a.m.
6 This is Docket No. 17F-RV-001-BCS, in the matter of
7 Hillcrest Academy, Incorporated.

8 All right. Now I'll have appearances for the
9 Arizona State Board for Charter Schools.

10 MS. ANDERSON: Kim Anderson, Your Honor, Assistant
11 Attorney General, representing the Arizona State Board
12 for Charter Schools.

13 And with me, to my right, is Ashley Berg, the
14 Executive Director of The Arizona State Board for
15 Charter Schools.

16 And behind me is Andrea Leder, of the Arizona State
17 Board for Charter Schools; and then Bianca Ulibarri,
18 Executive Assistant.

19 ADMINISTRATIVE LAW JUDGE: Will all three of them
20 be testifying today?

21 MS. ANDERSON: No.

22 Just Ms. Leder will be testifying.

23 ADMINISTRATIVE LAW JUDGE: Just Ms. Leder, okay.

24 All right.

25 No one has appeared on behalf of Hillcrest Academy.

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1 This hearing was scheduled to begin at 8:30 a.m.
 2 It is now 8:47 a.m.
 3 This matter comes regularly for hearing pursuant to
 4 a notice that was mailed to the parties.
 5 My name is Velva Moses-Thompson. I'm the
 6 Administrative Law Judge assigned to hear and decide the
 7 disputed matter.
 8 I'm located in the Office of Administrative
 9 Hearings in Phoenix.
 10 And this matter comes regularly for hearing
 11 pursuant to a notice that was mailed on October 5th,
 12 2016, and actually that was for a hearing that was
 13 scheduled for December 15th of last year.
 14 That hearing was continued, and the notice of
 15 continued hearing was mailed on December 13th, 2016.
 16 And according to the notice, that was mailed out
 17 back on October 5th.
 18 The issue is whether grounds exist to revoke the
 19 charter held by Hillcrest Academy.
 20 Is this your understanding of today's issue,
 21 Ms. Anderson?
 22 MS. ANDERSON: Yes, Your Honor.
 23 ADMINISTRATIVE LAW JUDGE: I will explain the
 24 hearing procedures.
 25 You will have the opportunity to testify under oath

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1 regarding all relevant facts.
 2 You can provide an opening statement with evidence,
 3 give a closing argument, and make legal objections.
 4 Do you have any questions?
 5 MS. ANDERSON: No.
 6 Is it your preference that I stand or sit for
 7 openings?
 8 ADMINISTRATIVE LAW JUDGE: Whatever is more
 9 comfortable for you. Thank you.
 10 At this time, what I will do is I'm going to go
 11 ahead and swear in Mr. Andrea Leder.
 12 Would you raise your right hand.
 13
 14 ANDREA LEDER,
 15 called as a witness herein, having been duly sworn, was
 16 examined and testified as follows:
 17
 18 ADMINISTRATIVE LAW JUDGE: Let the record reflect
 19 that Andrea Leder has been duly sworn and answered in
 20 the affirmative.
 21 All right. Ms. Anderson, opening statement?
 22 MS. ANDERSON: Briefly, Your Honor.
 23 Simply put, this case is a breach -- a case in
 24 which the school has breached its contract and State
 25 law.

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1 Charter Schools are public schools, and they are
 2 established by a contract, which is also known as a
 3 charter, between a sponsor and a public body or private
 4 person or a private organization.
 5 And the charter at issue today was entered into
 6 between the Arizona State Board for Charter Schools and
 7 Hillcrest Academy, Incorporated, to operate a charter
 8 school also by the name of Hillcrest Academy.
 9 As Hillcrest's sponsor, the Charter Board has
 10 authority, under 15-183, to revoke a charter at any time
 11 if the Charter School breaches one more provisions of
 12 its charter or if it fails to comply with State law.
 13 And that's what occurred in this case. Hillcrest
 14 Academy, Incorporated, breached one or more provisions
 15 of its Charter or State law, and it did that in two
 16 areas.
 17 The first is that it failed to open and to provide
 18 a comprehensive program of instruction to students for
 19 the requisite number of days during the 2016-2017 school
 20 year.
 21 And in the second instance, it failed to maintain
 22 and preserve its student records in accordance with the
 23 record retention schedule that's issued by Arizona State
 24 Library and Archives and Public Records Division of the
 25 Secretary of State.

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1 The record retention schedule requires that certain
 2 student records be maintained and retained permanently.
 3 And the record retention schedule also requires
 4 that students -- records pertaining to students with
 5 disabilities be maintained and retained for four fiscal
 6 years after the student leaves the school.
 7 Ms. Leder will -- she is the Assistant Director of
 8 Operations and Finance for the Board, and she will
 9 testify with regard to the number of days of
 10 instruction.
 11 And also the Board will be putting forth for
 12 admission an exhibit of Bianca Ulibarri which will show
 13 that when Board staff picked up student records from
 14 Hillcrest Academy, that they failed to maintain the
 15 records that they were required to maintain and retain,
 16 transcripts of final grades, standardized test scores
 17 and records related to the disabilities.
 18 Consequently, Hillcrest Academy, Incorporated's,
 19 Charter to operate its charter school should be revoked.
 20 ADMINISTRATIVE LAW JUDGE: Ms. Anderson, you may
 21 present your case.
 22 MS. ANDERSON: Thank you.
 23 Your Honor, I do have exhibits, and I also have a
 24 notebook of exhibits before you; although, I did also
 25 file them electronically.

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1 And I would withdraw Exhibit 10.
 2 ADMINISTRATIVE LAW JUDGE: Okay.
 3 MS. ANDERSON: And move to admit Exhibits 1 through
 4 9, and 11.
 5 ADMINISTRATIVE LAW JUDGE: Exhibits 1 through 9,
 6 and 11 are admitted.
 7 (Exhibit Nos. 1 through 9 and 11 were admitted.)
 8 MS. ANDERSON: Thank you, Your Honor.
 9 The Board calls Andrea Leder to the stand.
 10 ADMINISTRATIVE LAW JUDGE: Let the record reflect
 11 that Andrea Leder has been duly sworn and answered in
 12 the affirmative.
 13
 14 EXAMINATION
 15 BY MS. ANDERSON:
 16 Q. Could you, please, state your name for the record?
 17 A. Andrea Leder.
 18 The last name is spelled: L-e-d- -- as-in-David --
 19 -e-r.
 20 Q. Where are you currently employed and what is your
 21 position?
 22 A. I work for the Arizona State Board for Charter
 23 Schools, and I'm the Assistant Director of Operations and
 24 Finance.
 25 Q. In that position, what are your job duties?

Page 10

1 A. My job responsibilities include reviewing the
 2 annual audits submitted to the Board, and following up with
 3 schools on issues identified in those audits.
 4 I also am responsible for implementing the Board's
 5 financial performance framework and determining the school's
 6 performance under that framework.
 7 Q. Would it be accurate to say that, as part of your
 8 duties, you're charged with monitoring financial and
 9 operational performance in certain areas of charter schools
 10 that are sponsored by the Charter Board?
 11 A. That would be correct.
 12 Q. You're familiar with Hillcrest Academy,
 13 Incorporated?
 14 A. I am.
 15 Q. Did Hillcrest Academy, Incorporated, operate
 16 pursuant to a charter contract between the Arizona State
 17 Board for Charter Schools and Hillcrest Academy,
 18 Incorporated?
 19 A. Yes.
 20 Q. And for what period of time did it operate?
 21 A. The initial contract was affected in July of 1997
 22 and was for 15 years.
 23 Hillcrest was granted a renewal contract that took
 24 effect in July of 2012.
 25 Q. And was Hillcrest Academy previously known by the

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1 name of DCS Partners, Incorporated?
 2 A. Yes, it was.
 3 Q. If you would, refer to Exhibit 1.
 4 Is this the renewal contract, without the
 5 attachments, under which Hillcrest Academy, Inc., formerly
 6 known as DCS Partners, operated its charter school?
 7 A. Yes.
 8 Q. If you would, refer to Exhibit 2.
 9 Does it reflect the name change from DCS Partners,
 10 Incorporated, to Hillcrest Academy, Incorporated?
 11 A. Yes, it does.
 12 Q. Was the charter that is Exhibit 1 amended to
 13 reflect this change in name?
 14 A. It was.
 15 Q. And is that amendment what is contained in Exhibit
 16 3?
 17 A. Exhibit 3 does not include the amendment itself,
 18 but it does include information reflecting that such an
 19 amendment was submitted to the Board, and the Board did
 20 approve Hillcrest's request to change the name from DCS
 21 Partners, Inc., to Hillcrest Academy, Inc.
 22 Q. How many charter schools did Hillcrest Academy,
 23 Inc., operate under its charter contract?
 24 A. One.
 25 Q. What grades were those?

Page 12

1 A. The school served grades kindergarten through 8th
 2 grade.
 3 Q. If you would, refer back to Exhibit 1, and if you'd
 4 look at the page numbers on the bottom right corner, and
 5 refer to what is BCS 01 and then followed by four zeros and a
 6 five.
 7 From now on, I'll just indicate that it's Page 5.
 8 That's what I'm referring to in the bottom
 9 right-hand corner.
 10 On Page 5 of Exhibit 1, in Paragraph 16, it states
 11 that: A Charter Holder shall provide instruction for no less
 12 than the number of days required by statute or as stated in
 13 the application, whichever is greater, and meet the minimum
 14 hours of instruction required by statute.
 15 What is the Charter Holder -- the term "Charter
 16 Holder" in this case refers to Hillcrest Academy,
 17 Incorporated; is that right?
 18 A. That's correct.
 19 Q. And under Arizona law, what is the minimum number
 20 of days of instruction that -- within a school year, that a
 21 school has to provide?
 22 A. 180.
 23 Q. And what was the number of days of instruction that
 24 Hillcrest Academy represented that it would be providing
 25 during a school year?

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1 A. 180.

2 Q. Did you receive information in June of 2006 that

3 Hillcrest Academy, Incorporated, planned to file for

4 bankruptcy?

5 A. In the 2016, yes.

6 Q. I'm sorry. 2016.

7 And did you subsequently receive information that

8 it indeed did file for bankruptcy?

9 A. Yes.

10 Q. What information did you receive?

11 A. On June 29th, 2016, Hillcrest filed for Chapter 11

12 bankruptcy.

13 Q. And did you subsequently have contact with

14 Hillcrest Academy regarding what its plans were for the

15 operation of its charter school in the '16-'17 school year?

16 A. Yes.

17 Q. And with whom and what was that contact?

18 A. My communications occurred with Danielle Connolly,

19 who is the individual that Hillcrest appointed as its point

20 of contact for the Board for the purposes of communication

21 and accountability to the terms of the charter contract and

22 its provisions.

23 The discussions that we had are summarized in

24 Exhibit 9.

25 But generally, we spoke about how many students had

Page 14

1 enrolled for the 2016-2017 school year in Hillcrest Academy.

2 And we also discussed Hillcrest's plans to ensure

3 that the school opened in August.

4 Those discussions focused on Hillcrest's efforts to

5 obtain staffing for the school and to have facilities for the

6 school.

7 Q. So Danielle Connolly was considered what the Board

8 calls the charter representative or the charter operator?

9 A. That's correct, she is the charter representative.

10 Q. And did Hillcrest Academy, Incorporated, submit a

11 calendar to the Department Of Education for the 2016-17

12 school year?

13 A. It did.

14 Q. And is that calendar available on the Department of

15 Education's website?

16 A. Yes, it is?

17 Q. Is that calendar based on information that

18 Hillcrest provided to the Arizona Department of Education

19 with regard to what days it would be operating its school

20 during the '16-'17 school year?

21 A. Yes.

22 Q. If you would, refer to Exhibit 5.

23 Does Exhibit 5 provide the calendar for the 2016-17

24 school year that Hillcrest Academy, Incorporated, provided to

25 the Department Of Education?

Page 15

1 A. Yes, it does.

2 Q. And what did Hillcrest report to the Department

3 would be its first day of instruction for the 2016-17 school

4 year?

5 A. The first day of class was reported as August 2nd,

6 2016.

7 Q. And what did it report would be its last day of

8 instruction for the 2016-2017 school year?

9 A. That would have been May 24th, 2017.

10 Q. And is a school required to submit a calendar to

11 the Department Of Education in order to receive State

12 funding?

13 A. It is.

14 Q. Are you familiar with the process by which charter

15 schools receive funding?

16 A. Yes, I am.

17 Q. If you can just -- not in great detail, but briefly

18 explain what that process is.

19 A. Before classes start and for a certain period of

20 time until sufficient actual attendance data has been

21 reported to the State, charter schools are paid using an

22 estimated student count.

23 Since the Arizona Department of Education system

24 does not prepopulate that information, each charter school

25 must enter and then submit its estimated student count list

Page 16

1 to the Department.

2 The list includes individual student names, along

3 with certain information; such as, their dates of births and

4 the grade level that they are enrolled in.

5 Q. And then once the school year progresses, does the

6 school then change to actual student -- use actual student

7 counts?

8 A. Yes.

9 There are certain time periods set in statute where

10 the actual attendance data that the schools have been

11 reporting from the start of the school year is aggregated and

12 the State transitions from paying on an estimated count to

13 actual student attendance data.

14 Q. Would you refer to Exhibit 4.

15 And does this Exhibit 4 School Finance Memorandum

16 16-056 detail the process that you just described for State

17 funding to a charter school?

18 A. It does for the estimated student count process.

19 Q. If you would, refer to Page 11 of this exhibit, the

20 table at the bottom the page.

21 Was the school required to submit its estimated

22 student count by July 15 of 2016, at 4:30 p.m., in order to

23 receive a payment on August 1st, 2016?

24 A. Yes, that's correct.

25 Q. Did Hillcrest Academy submit an estimated students

Page 17

1 count to the Department of Education by the deadline of July
 2 15, 2016?
 3 A. It did.
 4 Q. What was that estimated student count?
 5 A. 137 students.
 6 Q. If you would, please refer to Exhibit 7.
 7 What is this exhibit?
 8 A. This is the email that I received from Ms. Connolly
 9 on July 31st indicating Hillcrest's decision to close its
 10 school.
 11 Q. Was this email sufficient to stop the August 1
 12 payment that was going to be made to Hillcrest Academy,
 13 Incorporated, for its estimated student count?
 14 A. No.
 15 Q. Why not?
 16 A. Because this email was sent and received at
 17 9:06 p.m., on Sunday, July 31st, or just hours before
 18 school's would receive their August 1st payment.
 19 The email indicates that Hillcrest's Board met for
 20 three consecutive days the week prior to discuss the school.
 21 Had our office been informed that Hillcrest was
 22 meeting the week of July 25th, it would have been possible
 23 for us to hold Hillcrest's August 1st payment pending
 24 Hillcrest's Board's decision.
 25 Q. If you'd refer to Exhibit 6, does this exhibit

Page 18

1 reflect that on August 1st of 2016, that Hillcrest Academy,
 2 Incorporated, received State monies in the amount of
 3 \$74,547.77?
 4 A. Yes.
 5 Line 1 reflects the August payment, and the last
 6 column on that page shows that the actual equalization
 7 assistance pay year-to-date, which would have been just the
 8 August payment, was the amount you identified.
 9 Q. Did you communicate with anyone at Hillcrest
 10 Academy, Incorporated, about their receipt of these funds
 11 despite the fact they were not going to be providing
 12 instruction to students for the 2016-17 school year?
 13 A. Yes, I did.
 14 Q. When was that, and with whom did you communicate?
 15 A. That communication occurred as part of an email
 16 exchange with Ms. Connolly on August 1st.
 17 Related to the funding, I indicated that since
 18 Hillcrest did not provide any instruction for the 2016-2017
 19 school year, they were not entitled to receive the August 1st
 20 payment, and therefore must reimburse the full amount to the
 21 State.
 22 The email also included information indicating how,
 23 either by in person or through the mail, that reimbursement
 24 check could be provided to the Department.
 25 Q. And has the \$74,547.77 of State funds that was paid

Page 19

1 to or on behalf of Hillcrest Academy been returned or repaid
 2 to the State?
 3 A. No.
 4 Q. Does Hillcrest -- to your knowledge, does Hillcrest
 5 Academy, Incorporated, remain in bankruptcy today?
 6 A. That is my understanding.
 7 Q. And would you refer to Exhibit 9.
 8 What is contained in Exhibit 9?
 9 A. Exhibit 9 is the staff report presented to the
 10 Board at its September 12th, 2016, meeting and the staff
 11 report pertains to Hillcrest Academy, Inc.
 12 Q. Does the report accurately reflect the
 13 circumstances and the time frames of the Charter Board's
 14 staff's contact with Hillcrest Academy?
 15 A. Yes, it does.
 16 Q. What action did the Charter Board take with regard
 17 to Hillcrest Academy at its meeting on September 12 of 2016?
 18 A. The Board voted to issue a Notice of Intent to
 19 Revoke Hillcrest Academy's charter contract.
 20 Q. Thank you.
 21 MS. ANDERSON: Your Honor, I have no further
 22 questions.
 23 ADMINISTRATIVE LAW JUDGE: All right. You may be
 24 excused.
 25 Ms. Leder is your only witness?

Page 20

1 MS. ANDERSON: Yes, Your Honor.
 2 ADMINISTRATIVE LAW JUDGE: Would you like to
 3 provide a closing argument?
 4 MS. ANDERSON: Just very briefly, Your Honor.
 5 ADMINISTRATIVE LAW JUDGE: Sure.
 6 MS. ANDERSON: Again, the basis for the revocation
 7 of the charter of Hillcrest Academy, Incorporated, is
 8 because it failed to provide the requisite number of days
 9 of instruction during the '16-'17 school year, as
 10 Ms. Leder testified.
 11 And as you will see in the affidavit provided by
 12 Ms. Ulibarri, which is Exhibit 11, that contains the
 13 details regarding Hillcrest's failure to maintain and
 14 preserve its students records in accordance with the
 15 law.
 16 And as a result of these issues, the Charter Board
 17 requests that the charter of Hillcrest Academy,
 18 Incorporated, be revoked.
 19 ADMINISTRATIVE LAW JUDGE: All right. Okay.
 20 So, normally, at this time, I would close the
 21 record, but I'm going to leave it open to allow for the
 22 transcript to be a part of the record.
 23 So that's usually about two weeks. So I will leave
 24 it open -- let's get a day here, March 9th.
 25 The record will be left open until March 9th to

Page 21

1 allow for submission of the transcript, and then it will
 2 be part of the record.
 3 All right. I thank everyone for participating.
 4 MS. ANDERSON: Thank you, Your Honor.
 5 (Hearing concluded at 9:08 a.m.)
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 2 COURT REPORTER AND
 3 REGISTERED REPORTING FIRM DISCLOSURE
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 5
 6 The foregoing proceeding was taken in compliance
 7 with the Arizona Code of Judicial Administration,
 8 Section 7-206(F)(3) and (J)(1)(G)(1) and (2).
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 10
 11
 12 DEBORAH J. BOYETTE BARTOLT REPORTING, LLC.
 13 Court Reporter Registered Reporting Firm
 14 CR NO. 50507 RRF No. R1028
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Page 22

1 STATE OF ARIZONA)
 2) ss.
 3 COUNTY OF MARICOPA)
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 5
 6 BE IT KNOWN that the foregoing proceedings was
 7 taken by me; DEBORAH J. BOYETTE, CR No. 50507, a Certified
 8 Reporter for the State of Arizona; that prior to being
 9 examined, the witness named was duly sworn to testify to the
 10 whole truth; that the questions propounded and the answers of
 11 the witness thereto were taken down by me and thereafter
 12 reduced to computerized transcription under my direction and
 13 supervision; that the foregoing is a true and correct
 14 transcript of all proceedings had upon the taking of said
 15 proceeding, all done to the best of my skill and ability.
 16 I further certify that I am in no way related to
 17 any party to said action or in any way interested in the
 18 outcome thereof.
 19 DATED Phoenix, Arizona, this 6th day of March,
 20 2017.
 21
 22
 23 _____
 24 DEBORAH J. BOYETTE
 25 CR No. 50507

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