
AGENDA ITEM: Compliance Matters – Hillcrest Academy, Inc.

Issue

Hillcrest Academy, Inc. (“Hillcrest”) submitted an estimated student count to the Arizona Department of Education, resulting in Hillcrest receiving an August payment it was not entitled to since Hillcrest did not provide instruction to any students in fiscal year 2017. As of the writing of this report, these funds have not been repaid to the State.

Background

Hillcrest operated one school, Hillcrest Academy, serving grades K-8 in Mesa. The first year of operation under the charter contract was fiscal year 1998. Hillcrest’s 100th day average daily membership (ADM) for fiscal year 2016 was 122.137. For fiscal year 2017, Hillcrest submitted an estimated count of 129.5.

Actions and Recent Communications

The following is a timeline of activities that have occurred:

February 26, 2016: Based on information disclosed in the fiscal year 2015 audit corrective action plan (CAP) and a request submitted by another charter holder on February 12 to add a new school to its charter at the Hillcrest Academy location, Hillcrest was asked to provide by March 11 “written clarification as to whether Hillcrest Academy plans to operate a school in Mesa next year or if it intends to surrender its charter contract effective at the end of this school year”.

March 9, 2016: The audit CAP submitted by Hillcrest stated that Hillcrest plans to surrender its charter effective at the end of the 2015-2016 school year.

March 10, 2016: Based on information disclosed in the audit CAP, Board staff sent a letter to the firm representing Hillcrest indicating in part, “Hillcrest is currently not in compliance with its charter contract and must submit the appropriate notification requests to reflect the current officers, directors, members or partners of the corporation and the current charter representative(s). If these requests are not submitted by March 29, 2016, Hillcrest may be placed on the Board’s April agenda for possible disciplinary action. These requests must be submitted even if Hillcrest intends to surrender its charter at the end of this school year, as it is Hillcrest’s board that must approve the surrender agreement and the charter representative who must sign it.” Hillcrest submitted the requests to the Board.

March 31, 2016: Board staff spoke with the charter representative, in part, about the request submitted by another charter holder to add a new school at the Hillcrest location. The charter representative indicated Hillcrest planned to surrender the charter contract whether the Board approved the new school for the other charter holder or not. The charter representative indicated the reason for the surrender would be financial issues from Hillcrest’s previous operator.

April 18, 2016: Board staff contacted the charter representative to determine Hillcrest’s plans moving forward based on the action taken by the Board at its April 11, 2016 meeting to deny the other charter holder’s request to add a new school to its charter. The charter representative indicated the Hillcrest Board would be meeting on April 22.

April 22, 2016: Hillcrest’s board approved an agreement with a new management company.

May 24, 2016: The charter representative informed Board staff that Hillcrest’s board would be meeting to cancel its contract with the new management company.

June 15, 2016: Board staff emailed the charter representative regarding a complaint received from a parent, who indicated there were padlocks on the school's doors. The charter representative stated she was at the school yesterday and there were no padlocks on the doors. Further, she indicated Hillcrest and the new management company mutually agreed to not enter into the management agreement that was supposed to start in July.

June 17, 2016: Board staff met with the charter representative and her team. The team shared its plans to keep the school open.

June 28, 2016: Board staff met with the charter representative. During this meeting, the charter representative provided an update on the bankruptcy process. She also indicated that as a result of a former employee's actions, several families had left the school. She asked if it was possible for Hillcrest to suspend operations for a year. Board staff indicated a suspension is not possible since the school has already been operating. She was concerned about only having 50 students show up on the first day of school. Board staff indicated concern too since at the last meeting, the break-even point was identified as around 120 students. She said she had given herself until June 30 to make a decision about next year. She would notify Board staff of the decision on July 1.

June 29, 2016: Hillcrest filed for Chapter 11 bankruptcy.

July 1, 2016: The charter representative did not contact Board staff on July 1, but did submit a School Site Location Notification Request, a School Name Change Notification Request and a Charter Holder Governance Notification Request through ASBCS Online.

July 5, 2016: Board staff left a voicemail for the charter representative, referencing the three requests and asking for an update on the number of students, staffing, and Hillcrest's plans to ensure that the school opens in August for these families.

July 7, 2016: Board staff followed up with an email, since the charter representative had not responded to the July 5 voicemail. The charter representative, who indicated she had been out of the state, responded that Hillcrest has confirmed about 125 students and will continue its marketing efforts. The charter representative indicated many of the teachers are returning and that Hillcrest is advertising for a second grade teacher and seventh and eighth grade math and science teacher.

July 14, 2016: As part of an email exchange related to the school facility, the charter representative indicated Hillcrest had about 140 students enrolled.

July 19, 2016: As part of an email exchange, the charter representative indicated there are a few issues with the Baseline Road facility, but Hillcrest has received permission from the attorneys/bond holder to remain in the Power Road facility until these issues are corrected. Board staff asked the charter representative to provide by the end of the week a copy of the permission Hillcrest received to stay in the Power Road location and the current student count.

July 22, 2016: The charter representative provided Board staff with an email from Hillcrest's attorney regarding Hillcrest's use of the Power Road facility. The charter representative identified a current student count of 135.

July 31, 2016: At 9:06 p.m., Board staff received an email from the charter representative stating, "Our board met three consecutive days last week and came to a a tough decision to close Hillcrest. I am ill

and had two minor strokes (TIA) the week before last while on a weekend getaway, that coupled with what our accountant says will be a shortfall by mid-year. I let our management company know late Friday evening and they gave us direction for an email and phone call to the parents which we have started. I have let our attorney know and am waiting to hear back from him.”

August 1, 2016: Hillcrest received an August state equalization payment in the amount of \$74,547.77.

August 1, 2016: As part of an email exchange with the charter representative, Board staff stated, “Since the charter holder did not begin providing instruction for the 2016-2017 school year, Hillcrest Academy must reimburse ADE the \$74,547.77 it received for its August 1st payment. The reimbursement check may be hand-delivered to ADE or mailed to ADE. Please complete the reimbursement by Friday, August 5, 2016.” The email also included the following, “By the end of today, please provide written confirmation that all parents have been notified that Hillcrest Academy will not be opening this year and classes will not start tomorrow and that either school staff spoke with each student’s parent(s) or school staff received email or other responses from each student’s parent(s). In addition, please indicate the phone number that should be used by parents or other schools to request students records and when the school office will be open to assist in providing records.” Further, the email mentioned drafting a surrender agreement.

August 1, 2016: A Hillcrest representative confirmed that an email was sent and a call made to all parents and provided the information requested by Board staff for student record requests.

August 1, 2016: Hillcrest’s attorney filed a Motion to Convert Chapter 11 bankruptcy case to Chapter 7.

August 3, 2016: Hillcrest submitted a School Closure Notification Request through ASBCS Online.

August 8, 2016: Board staff received a call from a parent indicating he was trying to obtain his child’s records and was unable to reach anyone at the school or leave a message because the mailbox was full. Board staff contacted the charter representative who indicated that Hillcrest had been locked out of the facility until an inventory of all assets could be completed and therefore did not have access to the student records. She also indicated that the bond trustee has the August payment and is waiting for direction from the U.S. trustee for the bankruptcy. She said it is her intent that the funds will be repaid to the State. During this conversation, Board staff also discussed with the charter representative the options available to the Board, which included a surrender agreement identifying that the August state equalization payment had not been repaid, issuance of a notice of intent to revoke Hillcrest’s charter contract, or a standard surrender agreement. Board staff indicated that the school closure request submitted by Hillcrest would not be processed and that the Board was willing to wait a little while before determining whether to proceed with a surrender agreement or revocation.

August 11, 2016: Attorney General’s Office filed a motion on behalf of the Board to retrieve Hillcrest’s student records.

August 17, 2016: The judge signed minute entry allowing the Board to retrieve the student records.

August 22, 2016: Board staff met the charter representative to retrieve the student records from the Power Road and Baseline Road locations. Student records identified by the charter representative were in a state of disarray (e.g., individual student files not maintained for all students, documents that needed to be filed and incorporated with existing student files) and were not retained as prescribed by the Arizona State Library, Archives and Public Records Division (e.g., failed to contain transcript of final grades, standardized test scores, special education records).

August 26, 2016: Communications with the parties in the bankruptcy were not successful in facilitating the return of the funds.

Board Options

Option 1: The Board may vote to issue a Notice of Intent to Revoke the charter holder's charter contract. Staff recommends the following language for consideration: I move that the Board issue a Notice of Intent to Revoke the charter of Hillcrest Academy, Inc. on the basis of its failure to comply with its charter contract when it failed to provide educational services to students, its receipt and failure to return State funds to which it was not entitled, and its failure to retain student records as prescribed by the Arizona State Library, Archives and Public Records Division of the Arizona State Secretary of State's office.

Option 2: The Board may direct staff to work with Hillcrest Academy, Inc. on the terms of a surrender agreement that includes the circumstances surrounding the closure. The following language is provided for consideration: I move to direct staff to work with Hillcrest Academy, Inc. on the terms of a surrender agreement that includes the circumstances surrounding the closure. If such an agreement cannot be reached, staff will provide the Board with documentation to consider a Notice of Intent to Revoke the charter at the next regularly scheduled meeting.