Findings and Final Recommendations - Charter Revocation Hearing

March 19 - 20, 1998

Flagstaff, Arizona

Complainant: Window Rock Unified School District No. 8

Respondent: Arizona Vocational Training School, L.L.C.
Arizona Career and Technology High School

A hearing was held on March 19th and March 20th, 1998, to determine whether there was sufficient factual basis for the revocation of a school charter granted to the Arizona Vocational Training School, L.L.C. (AVT) and the Arizona Career and Technology High School (ACT) by the Window Rock Unified School District No. 8. A Notice of Intent to Revoke Charter was issued by the Window Rock Unified District No. 8 directly to Mr. Reed Gaddie of the Arizona Vocational Training School, L.L.C. and the Arizona Career and Technology High School personally by Window Rock Superintendent Dr. Paul Hanley. The hearing was publicized as required by Arizona Revised Statutes and held on March 19, 1998, at the Little America Hotel in Flagstaff, Arizona, beginning at 9:00 a.m. Subsequently, the meeting was continued at 9:00 a.m. March 20, 1998, the following day, at the law offices of Hufford, Horstman, McCullough, & Mongini, Attorneys At Law, 323 North Leroux Street, Flagstaff, Arizona. The hearing concluded at 10:43 a.m. on March 20, 1998, after approximately nine hours of testimony. The hearing officer finds that the procedural requirements of 15-183 have been met.

The Window Rock Unified School District No. 8 entered into a charter school agreement with the Arizona Vocational Technology School, L.L.C., on November 26, 1996. The managing members listed in the agreement were Russell Riggs and Reed Gaddie. Russell Riggs was the applicant on the Charter Contract. On April 29, 1997, the Window Rock Unified School District No. 8 was notified that Russell Riggs was transferring his managing membership/ownership to Staci Gaddie. The Window Rock Unified School District No. 8 never approved this transfer. At the commencement of the hearing, a Mr. Jeff Parker made an appearance representing that the managing membership/ownership of the Arizona Vocational Technology School, L.L.C., had been transferred to him and that he was appearing on behalf of

the L.L.C. Prior to this time, Reed Gaddie had been representing the L.L.C. Legal counsel for the Window Rock Unified School District No. 8 had concerns because the district had no prior notification of this transfer and the governing board of the district had not approved the transfer as required by the Charter Contract. Approximately 15 minutes after the hearing was convened, Mr. Reed Gaddie entered the room and confirmed that he and his wife Staci Gaddie had transferred all interests in the L.L.C. to Mr. Parker. Legal counsel for the Window Rock Unified School District No. 8 raised concerns as to the ownership because the transfer had not been approved by the governing board. However, legal counsel for the Window Rock Unified School District No. 8 agreed to allow Mr. Parker to be the spokesperson/representative of the Arizona Vocational Technology School for the meeting. This was agreed to by Mr. Gaddie as well.

It is the opinion of this hearing officer that it was appropriate to continue the hearing, since the Window Rock Unified School District No. 8 properly posted the hearing as required by law. However, the Charter Contract between the Arizona Vocational Training School L.L.C. and the Window Rock Unified School District No. 8 requires the following:

> **"School shall maintain such status and ownership as represented in Attachment 1. Any change in status or ownership is subject to Sponsor's review and approval and shall be memorialized in an amendment to this Contract executed pursuant to paragraph C herein. Sponsor's approval shall not be unreasonably withheld."**

The question as to who specifically constitutes currently approved management is problematic. **Therefore, it is the opinion of this hearing officer that the apparent unilateral action to change management of the Charter School without the formal approval the Window Rock Unified School District No. 8 constitutes a violation of the initial Charter Contract. This, in and of itself, provides grounds for the revocation of the agreement.**

Findings

During the hearing, no specific information was provided by the Charter School to refute specific testimony provided by witnesses for the Window Rock Unified School District No. 8 as it related to the noncompliance issues. Although Mr. Parker, and subsequently Mr. Gaddie, introduced information to establish who may have been responsible for the Charter School's apparent lack of compliance, no specific information was offered to challenge the reasons contained in the District's Notice of Intent to Revoke Charter. Further, at the end of the first day of the hearing Mr. Gaddie, stipulated to receiving the affidavits in lieu of the personal appearances of various district witnesses who were present and ready to testify at the hearing. Mr. Gaddie stipulated to the admission of affidavits in lieu of testimony of Glenn Gaddie, Joy Davis, and Steve Bird.

For the purposes of clarity, the issues of noncompliance will be addressed in the order as they appear in the Notice of Intent to Revoke Charter.

1. Arizona requires charter schools to "comply with all federal, state, and local rules, regulations, and statutes relating to health, safety, civil rights, and insurance as required by A.R.S. 15-183(E)(1)."

a. Information was accepted into the record (as noted in a letter dated January 23, 1998, from the Senior Building Inspector for the City of Mesa) indicating the fact that the Charter School operated without a Certificate of Occupation.

b. Information was accepted into the record that a "student lock down" incident had occurred, that is, an incident where students were purposely locked into their classes (notes from Landon Edmonson dated 10-1-97).

c. Information was accepted into the record that indicated students may, on occasion, have been prevented from eating lunch

(notes from Landon Edmonson dated 10-1-97).

d. Information was accepted into the record (as noted in the affidavit of Allen Wade dated March 16, 1998, as well as the affidavit of Paul Johnson dated March 11, 1998, and notes of Landon Edmunson dated 10-1-97) that indicated students assisted in work at the facility that may have either been unrelated to their educational programming and/or unsafe.

e. Information was accepted (as noted in a letter to the Arizona Department of Education from Mrs. Sheila Allen) that indicated students at the Arizona Career and Technology High School were unable to obtain medication from the school nurse because of her absence on January 5 and 6, 1998.

f. Information (affidavit from Allan Wade dated March 16, 1998) was accepted indicating the existence of building code violations in that live electrical wires in the walls were left exposed to students for several weeks or months. The staff indicated the students would touch the live wires to "get a buzz". Some wires were apparently left after Mr. Gaddie ripped the fire alarm box off the wall.

g. Information was accepted that indicated some of the bus drivers for the Charter School did not have Commercial Drivers Licenses.

h. Information was accepted that indicated the fact that the L.L.C. Arizona Vocational Training School operated without required insurance for a period of time during the school year.

It is the finding of the hearing officer that the Charter School did not comply with all federal, state, and local rules, regulations, and statutes relating to health, safety, civil rights, and insurance as required by A.R.S. 15-183(E)(1).

2. Arizona requires that the Arizona Career and Technology High School is to "comply with all federal and state laws relating to the education of children with disabilities in the same manner as a school district."

a. Information provided by A.B.S. School Services (letter dated March 11, 1998 and signed by Dr. Richard Detzel) and accepted into evidence indicated the fact that, prior to their closure, the Arizona Career and Technology High School was making progress towards compliance with special education issues. However, in reviewing the information contained in the letter, it is clear that there is no question that the Charter School did not establish an appropriate level of compliance and was substantially in noncompliance with special education requirements. Noncompliance items included failure to provide appropriate screening and identification of students who might have otherwise qualified for special education services. For a period of time no services were provided and there is no question that the school could not successfully provide programming that is required by both federal and state guidelines.

Therefore, it is the finding of the hearing officer that sufficient information was presented at the hearing indicating the fact that the Arizona Career and Technical High School did not "comply with all federal and state laws relating to the education of children with disabilities in the same manner as a school district" as provided in A.R.S. 15-183(E)(7).

3. The Charter Contract requires that the Arizona Career and Technical School was to comply with provisions of the open meeting law.

a. Information was accepted at the hearing that indicated the fact that Mr. Gaddie may have made decisions outside of the authority normally associated with the responsibilities of governing boards (affidavits of Delite and Glen Gaddie dated January 15, 1998).

b. Names of board members were included in governing board minutes for meetings they did not attend. Former board members also question the accuracy of the meeting minutes (affidavit of Glen Gaddie dated January 15, 1998).

c. Proper minutes were not maintained. For example, the first page of Exhibit E, submitted to the Window Rock Unified School District No. 8 by Staci Gaddie listed as "AGENDA - Monday 9:00 AM - 12:00 noon) has no date or location listed for the governing board meeting. It is my opinion that this agenda would not meet the standards for the posting of agendas as contained in statutory law.

Therefore, it is the finding of the hearing officer that sufficient information was presented at the hearing which indicates the fact that the Arizona Career and Technical High School did not comply with the open meeting law.

5. The Charter Contract between the Arizona Vocational Training School L.L.C. and the Window Rock Unified School District No. 8 required the development and distribution of an annual standardized report card in a format developed by the Department of Education pursuant to Arizona Revised Statute. A copy of the report card was to be delivered to the Sponsor School.

Since no annual standardized report card has been delivered to the Charter Sponsor as of this date, the hearing officer finds the Arizona Vocational Training School L.L.C. in noncompliance with this requirement.

6. In accordance with the Charter Contract and Arizona Revised Statutes, fingerprint checks were to be executed by school officers and submitted to the Sponsoring School. This process should have been completed and in effect prior to the beginning the first day of school this past Fall.

a. Information was accepted that indicated the fact that some fingerprint checks were completed as part of the background investigation required by Arizona law. However, this process currently has yet to be completed for all employees. An example of this noncompliance was provided in the form of a letter sent to Mr. Gaddie from his Governing Board on October 8, 1998 stating "You have not complied with ARS 15-183 (F) requiring submission of your fingerprint card. This is a requirement for all staff in the charter under Section 4, Subsection 3.3." Mr. Gaddie has apparently been arrested and convicted of drug offenses that may prevent him from receiving a fingerprint clearance. Information was also presented that indicated other employees may have had criminal records that would have prevented them from working with students.

b. Information was accepted indicating the fact that as many as 44 employees of the Arizona Career and Technical High School did not have fingerprint checks completed (Exhibit DD.)

It is the finding of the hearing officer that the Arizona Career and Technical High School management was in substantial noncompliance with this requirement. For the record, this is also a serious violation that could effect the safety and welfare of the students and a serious violation of the law.

7. According to the Charter Contract, the Charter School was to provide a learning environment that would improve student achievement.

a. Sufficient information was accepted that indicated the fact that the instructional environment at Arizona Career and Technology High School did not meet this requirement. Student instructional programs were either consistently disrupted or, in some cases,

nonexistent. It was particularly disturbing to note that the students may have a difficult time receiving credit for the time devoted to instruction provided through a correspondence program provided by American School because matriculation fees to American School were never paid.

b. Information was accepted that indicated the Charter School attempted to execute an agreement with Phoenix Special Programs and Academics in order to provide a test measurement program. Beyond this initial correspondence, no other information was provided that would indicate compliance with this issue.

It is the finding of the hearing officer that the Charter School did not provide a learning environment that would improve student achievement.

8. One of the charges which emerged in the hearing involved violations of the regulations as contained in the Uniform System of Financial Records (USFR.) Information was admitted that indicates serious violations may have occurred on many different occasions.

a. Some purchase orders did not contain a receiving copy for goods or services purchased (T&N Consulting Report).

b. Appropriate bids or quotes were not procured for purchases (T&N Consulting.)

c. No full signatures were provided on purchase requisitions (T&N Consulting.)

d. A purchase order for new furniture was issued to Mohave Educational Consortium for $24,594.92. The purchase order was subsequently canceled and two purchase orders for furniture were issued to Systematic Procurement Systems in the amount of $28,811.46 for apparently used furniture which may have been in rather poor

condition. Without appropriate bidding procedures, the purchase constitutes a violation of procurement standards. The proposed purchase from Mohave would not have required bids or quotes. Further, the governing board of AVT never authorized the purchase.

e. Modular buildings purchased for one school site were sent to the AVT site.

f. Hancock & Associates, which consisted of Reed and Delite Gaddie, owned the land on which AVT is located. As board members and managers of the school, they were in effect, paying themselves for the rent of the property.

g. Jerry Doris, an AVT board member, apparently had an interest in Systematic Procurement Systems, who sold AVT desks and furniture without bids or quotes. This may have been a conflict of interest that was never disclosed.

h. Purchases were made without board approval (affidavit of Delite Gaddie dated March 13, 1998.)

g. Mr. Gaddie and Harold Allen, husband of a governing board member, may have been business associates and Mr. Allen supervised the construction of the Arizona Vocational Training School, for which he was compensated. This may have been a conflict of interest.

It is the finding of the hearing officer that the Charter School was in substantial noncompliance with the Uniform System of Financial Records and in violation of the Arizona State Procurement Law.

9. One of the most serious charges involved the failure to submit appropriate attendance reports in order to support average daily membership reports. Since

attendance figures generate state aid, accuracy is critical. Significant evidence was accepted that indicated problems with the attendance reporting at the Arizona Career and Technology High School in spite of the fact that Charter School retained the services of Essential Educational Services, a Division of ABS School Services in order to provide record verification and continued record management services. In fact, as of the date of the hearing, no accurate 40th or 100 day counts had been received by the Window Rock Unified School District, this in spite of repeated attempts to procure such records. Subsequent audit services provided by the Essential Educational Services (EES) indicated continued problems, such that an attempt was made to recreate accurate records. According to an EES report dated January 28, 1998, "These blue books (Arizona Public School Registers) contained questionable enrollment dates, withdraw dates, and absences." Other audit statements such as "These blue books, as suppled by ACT, contained few enrollment or withdrawal entries, and dubious absence data" more readily indicated the scope of the problem. Massive numbers of errors were consistently noted. Original attendance figures submitted by the Charter School indicated an absence rate of only 2%, an unusually high rate of attendance. However, absence rates extrapolated by EES from some teachers' rosters for a period of approximately one month, indicated an actual absence rate of 15.5%, which is unusually poor. Additional cumulative files, phone interviews of parents, as well as the blue books were used to establish final count figures. The fact that the enrollment data was inaccurate generated an overpayment in state aid to the Charter School, paid through the Window Rock Unified School District, the Sponsor School.

The most troubling part of this charge was the substantial evidence that was uncontroverted that was submitted regarding the blue books and bubble sheets and other attendance data that had been intentionally altered. Such activity would constitute a fraudulent act.

a. An affidavit from teacher Dennis Assay (March 13, 1998) indicates the fact that changes were made on his attendance blue cards for which he was not responsible.

b. Shirley Bird provided testimony (and an affidavit dated January 16, 1998) indicating the fact that, prior to October 31, 1997, teachers used bubble sheets for attendance that was to be transferred to the blue books. Mr. Gaddie told her to throw away the original attendance sign-in sheets after they were transferred to the blue books on November 1 and 2, 1997, by five staff members. According to her affidavit, "Reed specifically directed them not to be accurate and not to put in too many absences. So the group didn't refer to the 'sign-in sheets' to determine attendance and simply made up absences." Subsequently, Mrs. Reed claimed that Mr. Gaddie has asked her husband to dispose of the old attendance records. Later, when new attendance reporting procedures were implemented (including the use of new attendance sheets) the staff noted "probably thousands of erasures on the bubble sheets." According to information in the affidavit, Mr. Gaddie was seen erasing information on the attendance bubble sheets. Further, Mr. Gaddie made comments while erasing attendance information such as "I guess these teachers don't want to get paid" and "these absences are worth $22 a day to the school." Steve Bird also saw Reed Gaddie on a Saturday the first or second weekend in December at the school erasing bubble sheets. Periodically Mr. Gaddie would ask Mr. Bird to get him more pencils to make more erasures. Mr. Bird indicated that he provided at least six pencils that were worn out by Mr. Gaddie making the erasures.

c. Kim Connolly, Attendance Clerk, provided information that some attendance information was destroyed. Further, she believes that information transformed to the blue books did not accurately represent the attendance information for which she was familiar. Mrs. Connolly eventually terminated her employment, partially as a result of her concerns about the attendance data that was to be submitted in the blue books.

c. Joy Davis, the Charter School Nurse, provided information that she had heard teachers complaining that "attendance bubble sheets had been erased." She believed "that there appeared to be 'hanky panky' going on with attendance."

d. Janet Johnson, another teacher, provided information (affidavit dated March 12, 1998) that she was concerned for the accuracy of the records and had refused to sign the absence sheets as directed by Mr. Gaddie. She claimed that another teacher had told her that "someone had erased her absence marks on her attendance sheets."

e. Carol Riley-Leach refused to verify daily attendance records. According to her letter, "I can not verify these attendance records, nor will I fill out bubble sheets from the master (blue/white) sheets. These records have been erased and changed."

In view of the amount of unrebutted information provided at the hearing, there is overwhelming evidence to show the Arizona Career and Technical High School was in substantial noncompliance with attendance reporting procedures. Further, strong indications are that fraudulent activities could have taken place with regards to attendance reporting.

Concluding Remarks

For the record, it should be noted that the Window Rock Unified District No. 8 has not chosen to include Destiny Advance Learning Center and the Community School Charter in the revocation proceedings, even though they were named in the Notice of Intent to Revoke Charter since officials of that program have procured a new charter sponsor. Mr. Parker removed himself from any role in the hearing during the afternoon of the first day of testimony and did not physically return to the proceedings. At that point, Mr. Reed Gaddie took over the representation of the Arizona Vocational Training School, L.L.C. Legal counsel for the Window Rock Unified School District No. 8 did not object to Mr. Gaddie representing the Arizona

Vocational Training School, L.L.C.

During the second day, the hearing commenced at the offices of Hufford, Horstman, McCullough, and Mongini, 323 North Leroux Street, in Flagstaff, Arizona. During the proceedings, a speaker phone call was received by Mr. Parker which was entered into the official record of the proceedings with the full knowledge of Mr. Parker. At that time Mr. Parker stated that he was voluntarily surrendering any and all interests in the Arizona Vocational Training School, L.L.C. as well as the Arizona Career and Technical High School.

Another speaker phone call was received from Mr. Reed Gaddie a few minutes later which was also entered into the the record with Mr. Gaddie's full knowledge. Mr. Gaddie stated that he couldn't attend the proceedings that morning because of car trouble. Subsequently, he also stated that he and his wife Staci Gaddie did not want to pursue any further actions in the matter and that they also wished to voluntarily surrender any and all interests in the Arizona Vocational Training School, L.L.C. as well as the Arizona Career and Technical High School.

For the record it should also be noted that Mr. Gaddie admitted during the hearing that the Charter School was not in compliance with statutory requirements or with the terms of their contractual arrangements with the Window Rock Unified School District.

It is the opinion of the hearing officer that neither Mr. Parker or Mr. Gaddie presented any information to refute the specific claims and/or information presented by the Window Rock Unified School District No. 8. Rather, the spokespersons for the Arizona Vocational and Technical High School attempted to focus on information that would establish individual responsibility for the lack of compliance with the items contained in the Notice of Intent to Revoke Charter. As noted in the hearing, establishing the specific responsibility for actions that resulted

in noncompliance will, in my opinion, be very important in possible future actions regarding this issue. However, assigning specific responsibility for the problems of noncompliance seemed beyond the scope of the hearing. There is no question that the issues of noncompliance were, in the context of the situation, the responsibility of the management of the Arizona Vocational Training School, L.L.C. and the Arizona Career and Technical High School. The Window Rock Unified School District No. 8 did provide assistance, particularly in providing specific written recommendations that could assist the Charter School in eliminating noncompliance issues. Testimony was provided by Superintendent Dr. Paul Hanley as to the significant amount of time required to deal with the situation.

It is the opinion of the hearing officer that the information and testimony provided in the revocation hearing, together with the written transcripts of the proceedings, be forwarded to the appropriate law enforcement authorities. The evidence provided at the hearing seems to indicate a degree of noncompliance that transcends the basic issues of noncompliance and the contractual obligations of the Charter School operation.

During the two days of the hearing, the following exhibits were entered into the record without the objection of the Arizona Vocational Training School, L.L.C., and/or the Window Rock Unified School District No. 8, including the following:

A. Notice of Intent to Revoke
   1. Notice of Intent
   2. January 6, 1998 AVT Governing Board notice of appeal
   3. February 26, 1998 letter to AVT, LLC re: 90 day revocation hearing notice
   4. Revocation hearing procedures

B. Charter Amendments
   1. Charter contract
   2. Technical amendments
   3. April 23, 1997 proposed technical amendment
   4. April 29, 1997 Russell Riggs resignation
   5. May 12, 1997 amendment; resignation of Russell Riggs; new board members Glen Gaddie, Allan Wade, Jerry Doris

6. November 17, 1997 accept resignation of Delite Gaddie, Allan Wade, Glen Gaddie, approving Gerald Doris, Shelia Allen, Jacqueline Montierth
7. November 18, 1997 verification of Reed Gaddie that school's operation pursuant to Charter
8. January 12, 1997 John Munden's letter confirming resignation effective October 25, 1997
9. January 1998 resignation from Jacqueline Montierth, Gerald Doris, Shelia Allen
10. Patrice Horstman's letter to Destiny re: Destiny leaving AVT

C. ACT Course Description

D. Charter Application
   1. Application
   2. AVT, LLC Articles of Organization

E. Governing Board agendas and minutes

F. April 1, 1997 Notice of ratification giving Reed Gaddie supreme authority over Governing Board

G. Temporary Certificate of Occupancy

H. Complaints against Reed GAddie
   1. May 17, 1997 memo to Reed Gaddie from Director of Education re: behavioral probation
   2. October 1, 1997 complaint by Landon Edmonson
   3. October 8, 1997 resolution of Governing Board
   4. Agreement between AVT Governing Board and Reed Gaddie and Stacie Gaddie
   5. October 23, 1997 complaint by faculty

I. Firing of Delite Gaddie

J. September 17, 1997 "lock-down" of students and faculty

K. January 5, 1998 teacher "walk-out"

L. Allan Wade's notes and letters

M. American Schools
   1. American Schools correspondence
   2. Phoenix Special Programs

N. AZ Director of Apprenticeship Training/BAT

O. Department of Education monitoring visits

P. Closure of Community campus

Q. Resun Leasing

R. Systematic Procurement Systems

S. Hancock Associates

T. Transportation

U. December 10, 1997 Reed Gaddie letter to Paul Hanley re: 40th day, special ed, fingerprinting

V. Attendance/Enrollment

1. Department of Education October enrollment form
2. October 28, 1997 Paul Hanley letter to Russell Riggs
3. November 18, 1997 Reed Gaddie response
4. November 4, 1997 ABS letter of agreement re: attendance
5. ABS attendance procedures
6. December 5, 1997 ABS letter to Gaddie re: 40th day count
7. February 12, 1998 ABS procedures for 40th day count provided to Department of Education
8. ACT attendance sheets

W. AVT state funding
1. July 8, 1997 WRSD projected enrollment/funding AVT
2. Summary of state funding paid to AVT to January
3. Funding based upon pro-rated ABS estimated 40th day count
4. Monthly attendance summary
5. January 12, 1998 Department of Education letter to WRSD stopping AVT funding
6. January 12, 1998 WRSD letter to AVT re: Department of Education stopping funding
7. Window Rock monthly payments to AVT

X. WRSD site visit reports

Y. January 13, 1998 AVT Board closes ACT - agenda

Z. Neil Barwick financial review

AA. ACT failure to pay wages

BB. Interview statements
1. Dennis Asay and Julie Assay
2. Shirley Bird and Steve Bird
3. Kim Connolly
4. Joy Davis
5. Jerry Davis
6. Delite Gaddie
7. Glen Gaddie
8. Janet Johnson
9. Paul Johnson
10. Allan Wade

CC. Special Education

DD. Personnel Data Spreadsheet

EE.

FF. Insurance Information

GG. Letter to Patrice Horstman from Reed Gaddie dated March 12, 1998

HH. Letter to Reed Gaddie from Pat Graham dated May 27, 1997

II. Minutes of Emergency Faculty/Staff Meeting

JJ. Arizona Vocational Training Exhibits

KK. Letter to Reed Gaddie from Patrice Horstman dated March 16, 1998

HEARING OFFICER RECOMMENDATION: It is the finding of hearing officer that there is sufficient evidence to prove by a preponderance of the evidence that the Arizona Vocational Training School, L.L.C. and the Arizona Career and Technical High School is not in substantial compliance with the Charter Contract between the Arizona Vocational Training School, L.L.C. and the Window Rock Unified School District No. 8 or the applicable provisions of Title 15, Chapter 1, Article 8 of the Arizona Revised Statutes. Further, it is my recommendation that the school charter be revoked by the Governing Board of the Window Rock Unified School District No. 8.

Respectfully submitted,

Patrick M. Dallabetta

Patrick M. Dallabetta, Ed.D.
Hearing Officer

March 27, 1998