Kachina Country Day School, Inc.
Renewal Executive Summary Report

I. Sources of Evidence for this Document

A.R.S. 15-183.I states that "[a] charter school that elects to apply for renewal shall file an application for renewal…which shall include a detailed business plan for the charter school, a review of fiscal audits and academic performance data for the charter school and a review of the current contract between the sponsor and the charter school."

The Arizona State Board for Charter Schools (ASBCS) determined that renewal of a charter is based on affirmative evidence in three areas:

- Success of the academic program, including academic achievement
- Viability of the organization, including fiscal management and compliance
- Adherence to the terms of the charter, including contract and legal compliance

Evaluation of the charter holder's success in these three areas is based on a variety of information that will serve as sources of evidence in determining renewal. These sources include:

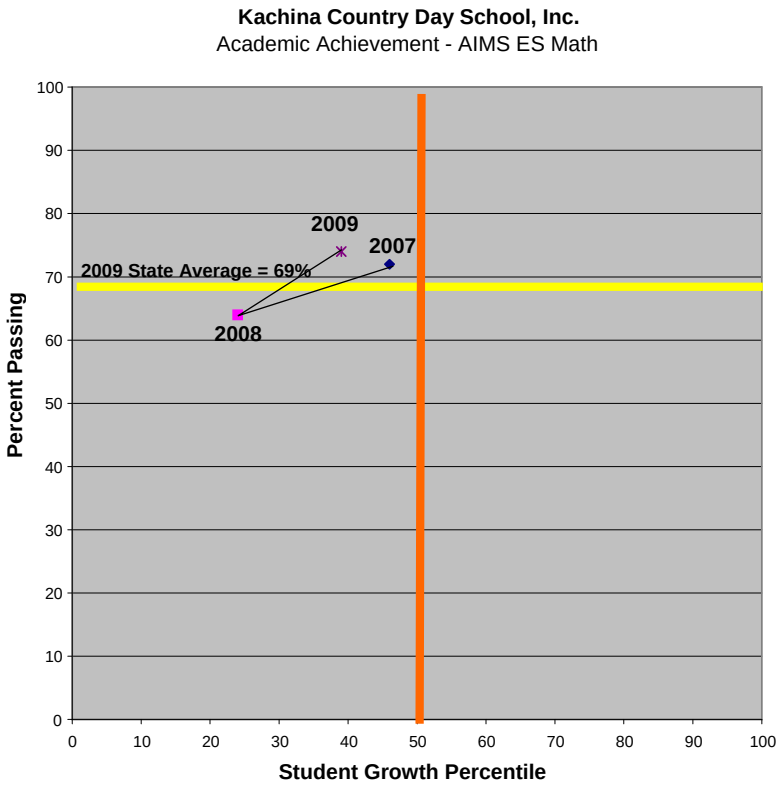
- Written application for renewal
- Student performance data
- Independent financial audits
- Five year interval summary reviews
- Site visit reports
- Monitoring reports

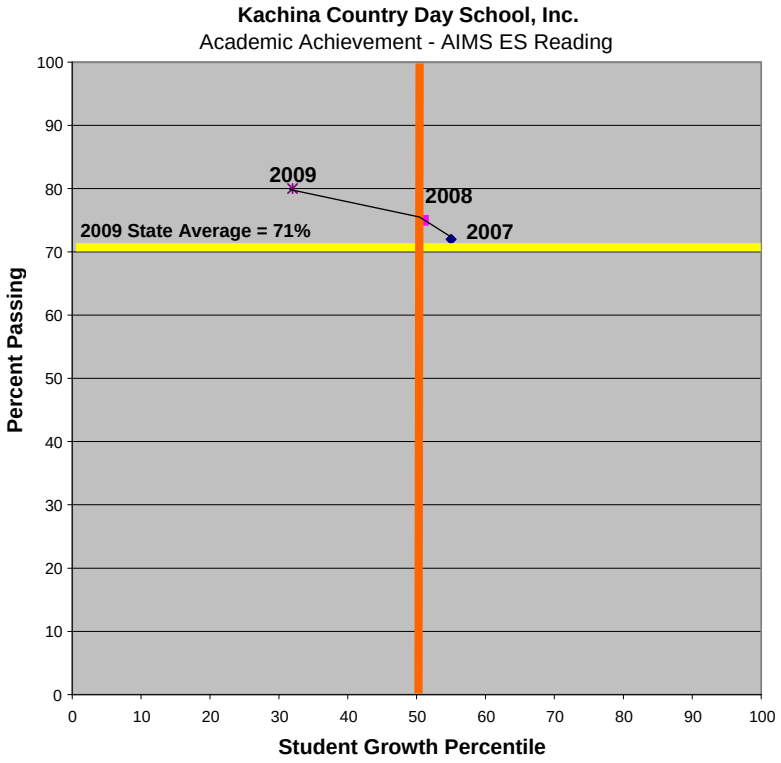
II. Profile

Kachina Country Day School, Inc. was granted a charter by the State Board of Education (SBE) effective on June 17, 1996. The Charter Holder transferred the charter to the ASBCS on March 9, 2004. Kachina Country Day School, Inc. is a non-profit corporation in good standing with the Arizona Corporation Commission. The charter representative is Chris Kline. The school, Kachina Country Day School – North Campus, is located in Scottsdale and serves grades K-8, and had a FY10 100th day ADM of 135.188.

Mission Statement (as provided in the contract):
Kachina Country Day School provides a mastery based primary learning program based on the models of child development from the Gesell Institute and Piaget. Basal curriculum materials are extended through the use of Whole Language and Manipulative math programs. Neuro-learning methods are used to increase sensory learning foundations and confidence. An interactive cooperative learning environment combined with computer learning techniques build to a focused and successful college preparatory education. Community resources are utilized to expose students to applications in the arts and science fields. Career internships and college exploration are an active part of the curriculum from the Jr. High age through high school.

III. Academic Performance





Fiscal Year	AZ LEARNS	Adequate Yearly Progress (AYP)
2009	Performing Plus	Yes
2008	Performing	Yes
2007	-	-

IV. Fiscal Compliance

As detailed in the Audit and Fiscal Compliance section of the *Renewal Summary Review*:

- The charter holder has failed to timely submit its annual audit for one or more years.
- The fiscal year 2006 audit identified a repeat issue.
- In the last 5 years of operation, only the fiscal year 2007 audit did not identify an issue which required a corrective action plan (CAP).
  - The fiscal year 2009 audit identified three issues which required the charter holder to submit a CAP – repeat noncompliance with federal payroll tax requirements, first-time noncompliance with state payroll tax requirements and noncompliance with fingerprinting requirements. The charter holder submitted a CAP addressing all three issues. As of October 6, 2009, according to the installment agreement with the Internal Revenue Service (IRS), the charter holder owed the IRS $244,891.09, which includes penalties and interest. The installment agreement requires monthly payments of $10,000. According to the Notice of State Tax Lien filed by the Arizona Department of Revenue (ADOR) on November 17, 2009, the charter holder owed the ADOR $11,237.78, which includes penalties and interest. Board staff's March 4, 2010 CAP follow-up letter to the charter representative stated:

    > "The Board will continue to monitor Kachina's compliance with making timely payments to the IRS and ADOR under its payment plans. Please note that should Kachina Country Day School, Inc. decide to submit a renewal application package for consideration, Board staff will request updated information on Kachina's compliance with both payment plans. This information will be reported to the Board."

    On June 16th, Board staff asked the charter holder to provide evidence that the school has made the required payments under its payment plans with the IRS and ADOR for the months of March 2010 through June 2010. Staff also stated that if the school has made additional payments to the IRS or ADOR or paid off the outstanding balance owed to either entity, please include evidence of that. The following communications have occurred since the June 16th request.
    - Information provided by Kachina on June 18th indicated that "No additional payments have been made due to Offer in Compromise filed with IRS on February 21, 2010." Regarding the ADOR payment plan, the information provided by Kachina showed that the school missed either the March or April 2010 payment.

- On June 18th, staff asked for additional information regarding the Offer in Compromise, an explanation for why an ADOR payment was missed and evidence of the June 2010 payment to ADOR. Specifically related to the IRS, staff's request stated, "If it (Offer in Compromise) was accepted, please provide a copy of it. If the IRS has not yet made a determination, please provide a copy of the communication from the IRS indicating that payments under the existing payment plan are on hold while this process continues."
- On June 25th, Kachina provided a timeline of communications with the IRS. Additionally, the school stated, "At this point we are still awaiting a final response. We have not yet received any communication at this point regarding a new installment agreement and/or if our Offer in Compromise is accepted." The school's response did not include any communication from the IRS indicating that payments under the existing plan are on hold or otherwise address this issue. Regarding ADOR, the school states that it has "had several conversations with ADOR and they have been very understanding of our situation." The June payment to ADOR is not due until June 30th.
- On June 25th, staff asked for clarification as to why no payments have been made to the IRS since the "additional payment" on March 22nd.[1] Additionally, staff asked the school to provide proof of the June ADOR payment by 10 a.m. on Friday, July 2nd. As of July 6, 2010, no information has been received.

Kachina Country Day School must follow the Uniform System of Financial Records for Charter Schools and adhere to State procurement regulations.

V. Legal and Contractual Compliance

For the previous five fiscal years –

- The charter holder has failed to timely submit the Annual Financial Report for one or more years.
- The charter holder has timely submitted the Budget.
- All Declarations of Curricular and Instructional Alignment were submitted to the Arizona Department of Education (ADE) in a timely manner.
- The Highly-Qualified Teacher report, updated on February 2, 2010, indicated 11 core highly qualified teachers. ADE sent the charter holder a noncompliance letter for not updating the HQT report on time.
- Cycle 6 No Child Left Behind (NCLB) Compliance Monitoring in 2005 identified noncompliance findings.
- In 2008, a Corrective Action Plan was required by ADE Exceptional Student Services for noncompliance with the Individuals with Disabilities Education Act (IDEA).

[1] Based on information provided, the "additional payment" may have been for current taxes. The last "installment payment" occurred in February.

- On June 23, 2010, the Maricopa County Superior Court approved an Assurance of Discontinuance agreed to by the Arizona Attorney General and Kachina Country Day School, Inc. pursuant to a provision of the Arizona Consumer Fraud Act.
  - Beginning in 2007, Kachina started accepting extracurricular tax credit donations at its charter school. In 2008, Kachina solicited donations through various means. In two of the solicitations, Kachina misrepresented that extracurricular tax credits of up to $500 for an individual taxpayer and $1,000 for married taxpayers filing jointly were available for donations to Kachina. In exchange for the donations, in 2008, Kachina issued extracurricular tax credit receipts totaling $9,765 – including one receipt for $1,000 and 1 receipt for $500. During this time, extracurricular tax credits were limited to $200 for individual taxpayers and $400 for married taxpayers filing jointly.
  - Beginning in 2008, Kachina began accepting School Tuition Organization (STO) tax credit donations at its private school. These donations funded scholarships for students attending Kachina's private school. Kachina misrepresented in letters, newsletters and on its website that STO tax credits were available for donations to a private school or contributions to a private school's tuition fund. In 2008 and 2009, Kachina issued STO tax credit receipts totaling $28,650 and $18,250, respectively. During this time, STO tax credits were statutorily restricted for donations made only to STOs as defined in the law. Kachina is not and never has been a STO.

  Under the Assurance, Kachina, among other things, agrees to refrain from issuing individual extracurricular tax credit receipts in excess of the amounts permitted by law and agrees to refrain from acting as a School Tuition Organization, accepting STO tax credit donations or issuing STO tax credit receipts. According to the Assurance, "Kachina understands that a violation of this Assurance within six (6) years of the filing thereof constitutes *prima facie* evidence of a violation of A.R.S. 55-1522. This Court therefore retains jurisdiction over the parties and the subject matter for purposes of enabling the State to apply to this Court for the enforcement of Respondent's compliance with the Assurance." [2]

- In July 2004, Kachina Country Day School Governing Board ("Kachina Board") entered into a "Stipulation and Agreement" with the Attorney General's Office for Open Meeting Law violations during the period of January 1, 2003 through December 31, 2004. According to the Stipulation and Agreement:
  - Kachina Board meetings for January through October 2003 were held in violation of A.R.S. §38-431.02(H) because none of the agendas gave specific notice of any of the items to be discussed.
  - The April 24, March 6 and June 12, 2003 Kachina Board meetings were held in violation of A.R.S. §38-431.02(G) because an agenda was not prepared 24 hours in advance of the meetings.
  - The Kachina Board did not have the notice required by A.R.S. §38-431.02(A) until November 13, 2003, and all Kachina Board meetings held before that date were held in violation of the Open Meeting Law.

[2] In the "Sustainability" narrative, Kachina's renewal application states, "Community members donate to the Tuition Tax Credit Program in support of the school's extracurricular activities."

- All Kachina Board meetings held prior to January 2004 are in violation of A.R.S. §38-431.02 because there was no notice posted that included the agenda or indicated where an agenda could be obtained.
- All Kachina Board meetings held prior to November 2003 were held in violation of A.R.S. §38-431.01(D) because the minutes were not available within three business days of the meeting.

Pursuant to the Stipulation and Agreement, the Kachina Board agreed:

- To annually certify compliance with Open Meeting Law and the agreement's stipulations to the Arizona State Board for Charter Schools for a period of five years.
- That the Kachina Board and any employees or volunteers who are responsible for minutes, notices or agenda items for board meetings would attend two Open Meeting Law training sessions per year for a period of five years.
- To hire a compliance officer at its own expense for a period of one year. The compliance officer must attend all meetings of the Kachina Board during that year and report to the ASBCS at the end of the year whether or not the Kachina Board remained in compliance with the Open Meeting Law.

For fiscal year 2005, Kachina provided the ASBCS with the required information referenced in the third bullet above. For the other two bullets, Kachina provided the required information to the ASBCS for the five years – fiscal years 2005 through 2009.

Previous Withholding:
In May 2006, the Board voted to withhold 10% of the charter holder's monthly State aid apportionment for failure to properly fingerprint staff as indicated in the fiscal year 2005 audit. The withholding occurred for six months.

In November 2005, the Board voted to withhold 10% of the charter holder's monthly State aid apportionment for failure to timely submit the fiscal year 2005 audit. The withholding occurred for one month.

In October 2005, the Board voted to withhold 10% of the charter holder's monthly State aid apportionment for failure to submit the School Report Card. No withholding occurred as the issue was addressed prior to the November 2005 payment.

In January 2005, the Board voted to withhold 10% of the charter holder's monthly State aid apportionment for failure to timely submit the fiscal year 2004 audit. The withholding occurred for one month.

VI. Renewal Application

A. Education Plan

Academic performance of the schools operated by the Charter Holder met the Board's level of adequate academic performance, including status and growth measures, for each of the previous

three years. Therefore, the Charter Holder was not required to submit any portion of the academic section of the renewal application.

B. Detailed Business Plan

Organization

According to the charter holder, there are three main departments which form the structure of the organization; Board of Directors, administration, and teaching staff. The KCDS Board of Directors is responsible for overseeing the overall operation of the school, managing the budget, and meeting quarterly to discuss and make decisions on school-related issues. The KCDS Board is also responsible for monitoring the school's academic performance.

The administrative staff are responsible for the day-to-day running and operation of the school. The principal is responsible for managing the teachers, teacher aides, and students. The business manager is responsible for the day-to-day financials of the school which includes working with vendors, managing accounts receivable, and administering payrolls. The office manager is the first point of contact when people call the school or visit the school. The office manager is also accountable for managing the school programs which require payments and for preparing outgoing bills.

The teachers and teacher aides are responsible for managing and working with students and colleagues on a daily basis. Teachers are also accountable for working and communicating with parents regarding the students' progress. The charter holder also included an organizational chart which depicts the relationship of these three departments.

Sustainability

Fiscal Viability

The application includes the significant accounting processes that are performed within the QuickBooks software. Functional responsibilities for the process and procedures are performed by the Executive Assistant and the Business Manager. The control and management for fiscal decision-making is vested in a board of directors. The board consists of eight elected members as designated from time to time by resolution of the board of directors. A notice of public hearing is posted and then the governing board meets to adopt the annual budget. The application's "Organizational Chart" section states that the board of directors manages the budget.

For fiscal year 2008 and fiscal year 2009, the independent certified public accountant issued an unqualified (or "clean") opinion on Kachina Country Day School's financial statements. The financial statements include the charter holder's charter school and private school operations. In each fiscal year, the charter holder ended the year with negative net assets. Kachina Country Day School began fiscal year 2008 with net assets of (-$1,238,250) and ended the year with net assets of (-$1,405,286). The charter holder ended fiscal year 2009 with net assets of (-$1,390,764). The charter holder's fiscal year 2009 financial statements were prepared assuming the organization

will continue as a going concern.[3] The audit states that Kachina Country Day School "has suffered reductions in net assets for the past several years and relies on one major related party creditor. Based on these factors, the School's cash flows may not be sufficient to timely satisfy its current liabilities. Management is developing plans to generate unrestricted revenues and to significantly reduce operating costs." The charter holder did not address the organization's fiscal viability generally or the going concern specifically.

The charter school's Budget Plan submitted as part of the renewal application indicates that revenues will exceed expenditures in all four fiscal years and that beginning in fiscal year 2010 and continuing through fiscal year 2012, the charter school will end the year with positive net assets. [4] The fiscal years 2011 and 2012 projections are based on ADM increases of 27 and 20, respectively. While the charter school's ADM increased by approximately 20 from fiscal year 2008 to fiscal year 2009, between fiscal years 2009 and 2010, the school's ADM increased by 3.42. Neither the Budget Plan assumptions nor any other area of the application package submitted explain the growth in ADM reflected in the Budget Plan. Further, the fiscal year 2010 assumption for State Equalization Assistance states that the amount was calculated by multiplying a student count of 162 by 6,000. The ADM reflected on the Budget Plan for the same fiscal year is 135. It is not readily clear why there is a discrepancy between these two numbers. Based on information obtained from the Arizona Department of Education's website, the charter school's fiscal year 2010 ADM is 134.686 and its weighted student count is 186.944. The discrepancy also exists for fiscal years 2011 and 2012.

Strength and Stability of the Governing Body
Strength and Stability of the Corporate Board

The applicant states, "The corporate board is the same as the school's Governing Body." However, the applicant also states, "The Charter holder is a different entity to the School's governing body. The Charter Holder does liaise with the Board of Directors and meets regularly with the Executive Director to ensure all policies and procedures are being met and adhered to." In another section of the application package, a reference is made to corporate board/charter holder. There is no additional information provided in the application package to determine whom Kachina Country Day School is referring to when stating that the charter holder is a different entity. Members listed for both the corporate board and the governing body are the same.

Peggy Murphy – President
Janece Kline – Member

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[3] "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 audit opinion would include a paragraph explaining this concern, as was the case with Kachina Country Day School.

[4] The Statements of Functional Expenses included in the fiscal years 2008 and 2009 audit indicate that the charter school program expenses represent approximately 27.5% and 28.2%, respectively of Kachina's total expenses, which were approximately $1.87 million in 2008 and $2 million in 2009. In 2008 and 2009, the private preschool and private elementary school program expenses combined represent approximately 39% and 38.2%, respectively, of Kachina's total expenses. The remaining approximately 33.5% of Kachina's expenses are attributed to general and administrative support services. The fiscal year 2009 total expenses included in the charter school's Budget Plan equal the charter school program expenses reported in the 2009 audit.

Steve Prahcharov – Member
Chris Hawkins – Member
Chelsea Lipson – Member
Cristie Kline – Member
Emma Hales – Member
Trey Kennard – Member

Kachina Country Day School states that the governing body monitors academic performance during the school year. Inconsistencies in the application package made it difficult to determine decision-making roles in the organization. While KCDS states that the Board determines any necessary action needed to ensure the academic performance of students, the application package also states that the executive director "recommends the academic policies of the corporation" and "directs and prescribes the course of study" the school will use.

Succession Plan

Charter Holder: The application package states that, in the event that any corporate board principals retires, resigns or needs replacing for any other reason, the Charter Holder/Corporate Board succession plan provides for existing directors to fill a vacancy at their discretion.

In the event of the resignation, retirement, or death of the executive director, the assistant school director assumes the duties and responsibilities of the executive director subject to confirmation by the other members of the executive committee. The directors may elect the officers of the corporation at any meeting of the Board of Directors for the terms stated in the resolution but not to extend beyond the next annual meeting.

Instructional Leadership: According to the application package, KCDS's instructional leadership team is comprised of the executive director, principal, and master teachers. Teachers with a set number of years' experience who demonstrate exceptional performance may be promoted to the title of Master Teacher. A master teacher may then become an assistant principal who may then become principal. KCDS has an incentive plan for teachers who receive exceptional performance evaluations from the executive director and principal may be eligible for merit pay.

Ongoing professional development is provided by the executive director several times per year. The applicant states that staff is also encouraged to attend professional development workshops off campus. KCDS pays half of the cost of the training and internally covers the absence of the staff member as an incentive.

Facilities Plan

The current location of 10460 N. 56th St, Scottsdale, AZ is a rented facility which has the capacity to accommodate approximately 200 students. With the existing enrollment at 155, there is still plenty of room for KCDS to grow at the current location. The charter holder states that the current location will serve KCDS very well for many years to come, with no plans for expansion to a different site location for the kindergarten through 8th grade classes.

VII. Staff Recommendation

Deny request for charter renewal and not grant a renewal contract for Kachina Country Day School.

Suggested Motion Language:
Based upon a review of the information provided by the applicant and the contents of the application which includes the academic performance, the fiscal compliance, and legal and contractual compliance of the charter holder over the charter term, I move to deny the request for charter renewal and to not grant a renewal contract for Kachina Country Day School, Inc. Specifically, the charter holder, during the term of the contract, failed to meet the obligations of the contract or failed to comply with federal or state law when it:

1. Failed to comply with the fingerprinting requirements in accordance with 15-183(C)(4);
2. Failed to timely submit annual financial audits in accordance with A.R.S. §§ 15-183(E)(6) and 15-914;
3. Failed to comply with State laws regarding Open Meeting Laws;
4. Failed to comply with Federal laws requiring the Charter Holder pay taxes required to be deducted and withheld from the wages of its employees and related taxes into the Treasury of the United States. 26 U.S.C. § 3401 et seq. ("Internal Revenue Code");
5. Failed to comply with State laws requiring the Charter Holder to submit Arizona income tax required to be deducted and withheld from the wages of its employees to the Arizona Department of Revenue;
6. Failed to provide a Business Plan that identifies organizational structure of the charter holder;
7. Failed to provide a Business Plan that addresses the fiscal viability of the entity for the continuation of the operation of a charter school; and
8. Failed to comply with State laws regarding its issuance of Extracurricular Activities Tax Credits.