



WARREN & BANKER
PLC
ATTORNEYS AT LAW

Tracy L. Banker, Esq.
Of Counsel
Direct Line: 480-222-2045 Ext. 106
Email: tracy@warrenbanker.com

February 29, 2012

**VIA ELECTRONIC MAIL
AND FIRST-CLASS MAIL**

Ms. Deanna Rowe
Executive Director
Arizona State Board for Charter Schools
1700 West Washington Street, Room 164
Phoenix, Arizona 85007

RE: Caliber College Prep High School (South), Inc.

Dear Deanna:

As you may know, this firm represents Caliber College Prep High School (South), Inc. ("Caliber South). Caliber South received notice that a letter from the Arizona State Board for Charter Schools ("ASBCS") dated February 21, 2012, in which you responded to Caliber South's request to execute the charter contract approved by the ASBCS in January 2011 was sent to Arizona Academy of Leadership ("AAL"). In the February 21 letter, you suggested that "the identified officer and all three of the directors of ... [Caliber South] are also officers and directors of [AAL]." You suggest that based on the ASBCS policy of considering an applicant's qualifications to operate a charter school when considering a charter application, that the ASBCS can, a year after approving a charter application, reconsider Caliber South's charter application based on alleged deficiencies with the operation of AAL. For the following reasons, we believe that such analysis is outside the scope of Arizona law and the ASBCS' own policies and thereby, request that you permit Caliber South to sign the charter contract that was already approved by the ASBCS, thereby allowing Caliber South to open its charter school in August 2012.

First, Caliber South and AAL are two separate corporations. Pursuant to A.R.S. §15-183(B), an applicant can be a public body, private person or private organization. In this case, both Caliber South and AAL are private organizations. Caliber South was incorporated on April 13, 2010, while AAL was incorporated on June 17, 2005. According to the February 21 letter, because the two organizations had the same officer and because all three of the corporate directors of Caliber South were also directors of AAL, you suggest that you can compare the two entities. However, as was planned well before receipt of your February 21 letter, Crystal Brooks resigned from the Caliber South corporate board. As of the date of this letter, the corporate board of Caliber South comprises Tonya Strozier and Tanae Morrison. While we understand that both Ms. Strozier and Ms. Morrison are corporate directors of AAL, they do not control a majority of the corporate board of AAL and therefore, the ASBCS cannot suggest that AAL and Caliber South are commonly controlled at the corporate level.

Second, Caliber South and AAL have been approved to operate charter schools governed by different governing bodies. The ASBCS has statutory authority to "exercise general supervision over charter schools..." See A.R.S. §15-182(E)(1). Since the charter school is operating, according to statute, through the governing body of the charter school, it is important to recognize that AAL's charter schools



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are operated by a 5-member governing body, none of which are on the governing body of Caliber South. See A.R.S. §15-183(E)(8).

Third, the ASBCS has already reviewed Caliber South's qualifications to operate a charter school and, on January 10, 2011, upon determination that the "applicant" was qualified to operate a charter school, approved its charter application. There is no provision in Arizona law, administrative rules or ASBCS' policies that authorizes the "reconsideration" of an approved-charter application. The only statutory authorization for overturning approval of an application is for the ASBCS to utilize the procedures set forth in A.R.S. §15-183(F)(3) and revoke the charter. Under A.R.S. §15-183(F)(3), however, the ASBCS must demonstrate that the operator of the charter school breached one of more provisions of the charter. Since the charter contract has not been signed and the charter school has not been permitted to open, it is unclear how the ASBCS could demonstrate such breach.

Finally, even if the ASBCS could "reconsider" approval of a charter application based on the "applicant's" current or prior charter compliance, Caliber South has never operated a charter school and therefore, does not have a current or prior charter compliance history to review. As previously explained, Caliber South and AAL are separately constituted corporations with separate governing bodies and therefore, cannot be considered as one entity.

Caliber South is prepared to sign the charter contract with the ASBCS immediately and desires to open in 2012 a charter school educational program already approved by the ASBCS. We request that you remove "reconsideration" of Caliber South's charter application from the ASBCS' March agenda.

Please contact me if you have any questions. If you choose to proceed with including Caliber South on the March agenda, please provide this letter as relevant information for the ASBCS to review.

Sincerely,

Tracy L. Banker