

**State of New Hampshire
State Board of Education
Concord, New Hampshire**

In the Matter of:

Capital City Charter School
(Charter Revocation Hearing)

Docket No. SBOE2021-01

NOTICE OF HEARING

1. The New Hampshire Board of Education ("Board") first granted a charter to Capital City Charter School ("CCCS" or "Respondent") pursuant to RSA 194-B:3-a on February 8, 2018. CCCS's Charter is due to expire on February 7, 2023.

2. On or about February 22, 2018 the Department awarded CCCS \$223,000.00 of federal charter school start-up funds pursuant to the federal Expanding Opportunity Through Quality Charter Schools Program grant (the "CSP Grant").

3. On or about May 19, 2019 the Department's Bureau of Federal Compliance (the "Bureau") performed a standard subrecipient monitoring visit of CCCS as part of its subrecipient monitoring responsibilities for the CSP Grant pursuant to 2 CFR 200, et seq.

4. Based upon the information gathered during the subrecipient monitoring visit and subsequent communications between the Department and CCCS regarding CCCS's financial reporting obligations as well as other information obtained by the Board about CCCS's ongoing operations and financial management as outlined herein, the Board finds that there is a reasonable basis for commencing a public hearing to determine whether revocation of CCCS's charter is warranted pursuant to RSA 194-B:16.

5. In support of this *Notice of Hearing*, the Board alleges the following facts:

- A. As of today's date, the Department has awarded \$534,573.23 in state adequate education grants to CCCS pursuant to RSA 194-B:11.
- B. On or about October 30, 2020, CCCS was awarded a PSI infrastructure grant to reimburse the school for certain infrastructure costs ("State Infrastructure Grant").

- C. On or about August 19, 2019 the Bureau sent a letter to CCCS summarizing the subrecipient monitoring visit that identified concerns relative to federal grant management compliance for the CSP Grant and required corrective actions, including but not limited a requirement that CCCS obtain an independent audit of all grant expenditures for fiscal years 2018 and 2019 (the “Federal Audit”).
- D. Respondent has appeared before the Board at various times. At the August 8, 2019 Board meeting, in response to the first year program audit performed by the Department of Education as required in RSA 194-B:10, III, the Board asked CCCS about learning objectives, fundraising, a timeline for accountability, closing achievement gaps, and whether IEPs were being provided to students. The Board found that the report was incomplete due to the lack of information provided by CCCS and directed the school to provide a supplemental report at a subsequent meeting.
- E. At the November 21, 2019 Board meeting, CCCS officials appeared before the Board again to provide an updated report, which the Board still found to be incomplete.
- F. Also at the November 21, 2019 hearing, CCCS officials represented that Plodzick & Sanderson, PA was working on CCCS’s delinquent financial reporting obligations, including without limitation the mandatory 2017/2018 Annual Financial Audit, the mandatory 2018/2019 Annual Financial Audit (collectively hereinafter the “State Audits”), and the Federal Audit.
- G. Periodically between the date of the compliance monitoring visit and the date the final Federal Audit was received, the Department checked in with CCCS regarding the status of the Federal Audit.
- H. On or about May 14, 2020 the Department received a draft of the Federal Audit (the “Draft Audit Report”).

- I. On or about August 4, 2020, as a result of concerns about CCCS's longstanding and continuing noncompliance with standard financial reporting obligations and the significant potential problems documented in the Draft Audit Report, the Board entered a stipulated remedial plan with CCCS on or about pursuant to RSA 194-B:16, III.
- J. As part of the remedial plan, CCCS committed to provide the over-due State Audits and the final Federal Audit by dates certain, as well as address other past-due financial reporting obligations. The Remedial Plan stipulated that the 2017/2018 Annual Financial Audit would be submitted no later than August 15, 2020, that the 2018/2019 Annual Financial Audit would be submitted no later than September 30, 2020, and that the final Federal audit would be submitted no later than July 31, 2020, among other stipulated reporting deadlines for standard past-due financial reports.
- K. As of the present date, CCCS had not submitted either of the required State Audits, and has also missed other financial reporting deadlines as stipulated in the Remedial Plan.
- L. On or about July 31, 2020, the Department received the completed Federal Audit, which found excess/unsupported grant reimbursements of \$153,837.98 from the CSP Grant monies.
- M. Based on the Federal Audit, the Department issued a letter to CCCS on or about September 9, 2020, requesting a repayment of the unaccounted for federal grant funds identified in the Final Audit.
- N. CCCS, pursuant to 34 CFR 76.783, requested a hearing on the repayment request.
- O. As part of an agreement to delay the hearing date, CCCS provided \$25,000 in escrowed funds toward the ordered repayment amount.

- P. The hearing, held on or about December 10, 2020, ultimately resulted in an Order from the Commissioner upholding the Department's repayment request (the "Order").
- Q. As of the present date, CCCS has not repaid the funds pursuant to the Order, other than the funds provided pursuant to the escrow arrangement prior to the hearing.
- R. On December 22, 2020, counsel for CCCS sent a letter to the Department indicating that CCCS did not have the funds necessary to pay the balance of the funds required in the repayment order.
- S. In addition to the financial concerns relative to the State Audits and the Federal Audits and the multiple violations of the timelines in the Remedial Order, the Department has also received complaints from a teacher and a contractor alleging financial irregularities at the school.
- T. Beginning on or about October 30, 2020, CCCS submitted a request for reimbursement under the State Infrastructure Grant. The Department requested supporting documentation for this request. The documents provided to the Department by CCCS in response to this request and in follow-up requests did not clearly support the request and had a number of other material deficiencies, including but not limited to the following: some invoices were not related to the work identified in the application, some invoices were marked as overdue, not paid, or in collections, and some invoices did not match requested amounts.

6. Based upon the information gathered by the Department in its ongoing monitoring of CCCS, the Board finds that there is a reasonable basis for commencing a public hearing to determine whether revocation of CCCS's charter is warranted pursuant to RSA 194-B:16.

7. The specific issues to be determined at the hearing include, but are not limited to the following:

- A. Whether CCCS's continuous failure to comply with the Department's lawful requests for financial information required by law and by the Remedial Plan constitutes a failure "to meet generally accepted standards for fiscal management" within the meaning of RSA 194-B:16, II(b).
- B. Whether the substantial alleged irregularities noted in the Federal Audit constitute a failure "to meet generally accepted standards for fiscal management" within the meaning of RSA 194-B:16, II(b);
- C. Whether CCCS's failure to repay and stated inability to repay the federal grant monies as ordered by the Department and its indicating an inability to do so constitute the school becoming "financially unstable" and/or "insolvent" within the RSA 194-B:16, II(e);
- D. Whether CCCS's demonstrated inability to provide documentation to support its reimbursement requests under the State Infrastructure Grant constitute a failure "to meet generally accepted standards for fiscal management" within the meaning of RSA 194-B:16, II(b); and
- E. If any of the above allegations are proven, whether, and to what extent, Respondent should be subjected to charter revocation pursuant to RSA 194-B:16, II.

THEREFORE, IT IS ORDERED that public hearing be commenced for the purpose of resolving the issues articulated above pursuant to RSA 194-B:16. To the extent that the Board's rules do not address an issue of policy or procedures, the Board shall apply the Jus 800 Rules;

IT IS FURTHER ORDERED that Respondent shall appear before the Board on February 9, 2020 at 10:00 a.m., at the Board's office located at 101 Pleasant St. (Londregon Hall), Concord NH 03301 to participate in this hearing and, if deemed appropriate, be subject to sanctions pursuant to RSA 194-B:16, and,

IT IS FURTHER ORDERED that if Respondent elects to be represented by counsel, at Respondent's own expense, counsel shall file a notice of appearance at the earliest date possible; and,

IT IS FURTHER ORDERED that Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and charter revocation and/or a remedial plan may be imposed without further notice or an opportunity to be heard; and,

IT IS FURTHER ORDERED that Diana Fenton, 101 Pleasant St., Concord, NH 03301 is appointed to act as Hearing Counsel in this matter. Hearing Counsel shall have the status of a party to this proceeding; and,

IT IS FURTHER ORDERED that Board Chair Andrew Cline or any other person whom the Board may designate, shall act as presiding officer in this proceeding; and,

IT IS FURTHER ORDERED that a witness list and any proposed exhibits shall be pre-marked for identification only and filed with the Board no later than Friday, February 5, 2021. Respondent shall pre-mark its exhibits with capital letters, and Hearing Counsel shall pre-mark her exhibits with Arabic numerals; and,

IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Angela Adams, Executive Assistant, Department of Education 101 Pleasant Street, Concord NH 03301; and,

IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Angela Adams, Department of Education, 101 Pleasant Street, Concord NH 03301 (603) 271-3144, but that all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are prohibited; and,

IT IS FURTHER ORDERED that a copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address it supplied to the Department, as well as to Respondent's attorney, if Respondent notifies the Board that it will be represented. A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD

Dated: February 3, 2021