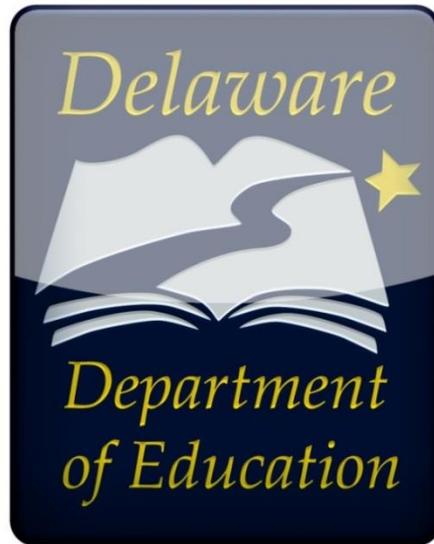


CHARTER SCHOOL ACCOUNTABILITY COMMITTEE

DELAWARE DEPARTMENT OF EDUCATION



Academy of Dover

**FORMAL REVIEW
INITIAL REPORT**

CSAC Initial Meeting: May 13, 2015
CSAC Initial Report Published: May 18, 2015

The following were in attendance at the Initial Meeting of the CSAC on May 13, 2015:

Voting Committee Members of the Charter School Accountability Committee

- David Blowman, Chairperson of the Charter School Accountability Committee and Deputy Secretary of Education, DDOE
- Karen Field Rogers, Associate Secretary for Adult Education and School Supports, DDOE
- April McCrae, Education Associate, Science Assessment and STEM, DDOE
- Mary Ann Mieczkowski, Director, Exceptional Children Resources, DDOE
- Tasha Cannon, Deputy Officer Talent Recruitment, Selection and Strategy, Teacher and Leader Effectiveness Unit (TLEU), DDOE
- Charles Taylor, Community Member and Retired Charter School Leader

Staff to the Committee (Non-voting)

- Ilona Kirshon, Deputy Attorney General, Counsel to the Committee
- Jennifer Nagourney, Executive Director, Charter School Office, DDOE
- John Carwell, Education Associate, Charter School Office, DDOE
- Michelle Whalen, Education Associate, Charter School Office, DDOE
- Brook Hughes, Education Associate, Financial Reform and Resource Management

Representatives of the School

- Kimeu Boynton, Board President
- Nancy Wagner, Board Vice President
- Beverly Davis, Board Treasurer
- Dr. Charles Fletcher, Board Member
- Cheri Marshall, Head of School
- John Leone, Administrator
- Jim Taylor, Counsel

Additional Attendees Noted

- Elizabeth Lewis, Office of Management and Budget

Discussion

Mr. Blowman stated that he was looking forward to an open dialog with the meeting. He stated that the purpose of the meeting was to have a free and open discussion, and not to issue a recommendation.

Mr. Blowman noted that the grounds for the formal review are outlined in a letter to the Academy of Dover Charter School ("AOD") Board, dated April 23, 2015, which include the following potential violations of the law and charter:

- Financial viability;
- Financial management;
- Financial oversight;
- Board capacity; and
- Academic performance.

Mr. Blowman noted that AOD's board of directors submitted a set of documents to the Department of Education ("Department") on April 30, 2015. These documents included copies of statements for credit cards and accounts held by the school since the 2011-12 school year, including accounts with Home Depot, Lowes, Staples, and Sam's Club. The Charter School Office has identified a set of statements documenting purchases that may have been made by the former school leader for personal use. A representative sample of those statements have been added to the record.

Additionally, Mr. Blowman noted that AOD's board of directors submitted a set of correspondence regarding a legal judgment with Mosaica Education, Inc. ("Mosaica"), the school's former charter management organization.

Financial Viability

Mr. Boynton noted that none of the current board members were serving on the board when the contract with Mosaica was executed. He stated that the Department mandated that AOD's board, at that time, terminate its agreement with Mosaica as a condition of charter renewal. Mr. Boynton also noted that AOD was in no position to enter into any type of settlement agreement with Mosaica because it was their understanding that the law precluded payment of management fees before the board insured that sufficient revenues of the school are devoted to adequately support the school's educational program. He added that school has been dealing with this issue for the past ten years and the current board has only recently attempted to reach resolution.

AOD's counsel, Mr. Taylor, stated that he was involved with the original arbitration in 2008. Mosaica claimed that its contract with AOD was wrongfully terminated and brought a claim against the school. The contract contained an arbitration clause. Mosaica initially sought \$5 or \$6 million. Arbitration decreased the amount to \$1 million. Since 2010, AOD has had this

judgment with interest accruing at 18% annually. Mosaica has demanded full payment. AOD's former board agreed to convert past due fees into promissory notes.

Mr. Taylor explained that since the arbitration Mosaica has contacted him periodically (once every 18 months) to establish a payment plan but agreement on the parameters could not be reached. AOD wanted the interest cancelled. Mr. Taylor stated that Mosaica had done nothing to enforce the judgment until recently, when it served a noticed on the Treasurer's office seeking to garnish all of AOD's funds. In April, this case went to the Superior Court and Judge Young ruled against AOD. On June 22, 2015, a hearing is scheduled for re-argument. Mr. Taylor noted that AOD has been in contact with Mosaica to reach a resolution before the June 22 Superior Court hearing. AOD had a call with Mosaica on May 13, 2015 but there is currently no agreement.

Mr. Blowman noted that the charter law (14 Del. C. § 512 (14)) does not preclude payment of management fees. The school's educational costs must be satisfied prior to the payment of any management fees. Mr. Taylor noted that up until about a year ago AOD had very little remaining funds after its educational expenses had been covered. He also noted that AOD's surplus has improved some in the past year. Ms. Field Rogers asked the school to confirm its projected balance at the end of the current fiscal year. Mr. Taylor stated that approximately \$350,000 is required to cover summer pay. The school projects approximately \$450,000 as its fund balance by the end of the current fiscal year. Ms. Wagner noted that AOD has contracted Innovative Schools to help determine what the school can afford to pay Mosaica so the legal team could pursue resolution. Mr. Boynton clarified that his earlier reference to the statute pertained to the judgment not the payment of management fees.

Mr. Taylor was asked for the anticipated timeline for Judge Young to render a decision on the June 22 re-argument case. Mr. Taylor stated that it was difficult to determine. He added that a decision could be rendered the same day or take several months.

Mr. Taylor noted the timing of Mosaica's recent pursuit of the judgment. Ms. Wagner stated that AOD sends annual financial statements to Mosaica and Mosaica may have determined that AOD is in a better position to pay. Mr. Blowman asked the school whether a resolution in advance of the June 22 hearing could influence the judge's decision. Mr. Taylor stated that a resolution might be viewed positively by the judge.

Mr. Blowman noted that the CSAC has to consider the potential impact of the June 22 decision on the financial viability of the school and what is in the best interest of students. If the decision is to uphold the judgment the impact on the school would be disastrous. He also noted that the Department's Formal Review process will conclude on June 18, 2015.

Financial Management

Mr. Blowman noted the inappropriate use of State funds by the school's former head of school and asked the school to speak to the timeline and evidence of financial impropriety. Ms.

Wagner stated that the school contracted Barbacane, Thornton & Company LLP (“Barbacane”) to audit the school’s financial records. Barbacane’s Pam Baker notified the board that the audit found significant evidence of questionable credit card charges and requested approval for Barbacane to conduct additional work to review the entire last year. Ms. Wagner added that the former head of school did not provide receipts for significant purchases. Ms. Wagner stated that Barbacane, after completing its review, advised the board to contact the State Auditor’s Office and the Attorney General’s Office. The State Auditor’s Office was at the school for a week. The Board decided to remove the former head of school immediately. Mr. Boynton met with the former head of school. Ms. Wagner noted that the State Auditor’s Office continues to find new evidence which has delayed the completion of the school’s audit. The State Auditor’s final report should be completed by the end of May. She noted that the school continues to receive bills from unknown credit cards. She suggested improvements in the State’s checks and balances. Ms. Wagner also noted that the school had significant personnel issues under the former head of school.

Mr. Blowman asked the school to explain its current financial controls. Ms. Wagner explained that the school has worked with the Division of Accounting to develop internal controls, policies and procedures. Mr. Boynton noted that the State Auditor’s Office concluded that the improper use of State funds could only be discovered through an audit. The former head of school had total control over the financial processes. The board did not see personal items nor non-instructional items paid through the First State Financials (FSF) system. Ms. Wagner also stated that the board is doing everything possible to prevent these issues from occurring again.

Mr. Blowman asked the school if it currently has any P-Cards. Mr. Boynton confirmed that the school does not currently have any P-Cards. However, he added that the board has discussed applying for a P-Card for the new Principal to use for travel-related expenses.

Mr. Blowman requested an update on the school’s written policies and procedures. Mr. Boynton stated that written policies and procedures will be adopted at the next board meeting. He added that the board cannot approve the new policies and procedures until the P-Card training is completed. Mr. Boynton also noted that the Board Treasurer resigned. The board requested her resignation because she was not able to fulfill her responsibilities, which included establishing the school’s Citizens Budget Oversight Committee. The new Board Treasurer is Beverly Davis. Mr. Chuck Taylor recommended that the board form an oversight committee to review the school’s operations to mitigate any potential issues in the future.

Board Capacity

Mr. Blowman noted that the Head of School is hired by the board. Thus, the board is ultimately responsible for the operations and governance of the school. Ms. Wagner noted that the personnel issues have been resolved since the new Head of School was hired. Morale has improved. Ms. McCrae noted that the systemic issues are serious and highlight a learning opportunity for the board. Ms. Nagourney asked the school to describe its school leader

evaluation process. Ms. Wagner stated that nothing had been in place prior to the new Head of School. The contract with the new Head of School includes 6-month performance benchmarks.

Academic Performance

Mr. Blowman noted that the school's academic performance was positive for 2011-12 and 2012-13 but regressed last year. He asked the school to provide an explanation for the drop in performance in 2013-14 and any plans to improve academic performance. Ms. Wagner noted that the former Head of School allowed State compliance requirements to fall through the cracks and led the board astray.

Ms. Marshall stated that she met with the faculty at the start of the current school year to discuss the school's 2013-14 Academic Performance Report. The school adopted new math and writing curricula in the middle of last school year. She added that students had a lot of anxiety this year with the new Smarter Balanced assessment. Mr. Blowman asked the school to provide any alternate assessment data that demonstrates student growth in the current school. Ms. Marshall noted that this year the school began implementing math Response to Intervention (RTI) to complement the reading RTI that was implemented previously. Students have shown growth this year as measured by the DIBELS assessment. Ms. Marshall noted that the reading specialist and new math curriculum appear to be positive influences. She also noted that AOD uses the MOSI Math Tutoring and IXL programs. Ms. Mieczkowski asked the school to explain its instructional strategies for Tiers I, II and III. Ms. Marshall noted that the school provides an extra 120 minutes with a reading specialist.

Ms. Nagourney asked the school to provide any school culture data that evidence improvement since last year. Ms. Marshall stated that the Behavior Interventionist inputs data into e-School. Ms. Nagourney asked the school to provide a description of the school's actions to address the recent incident involving a teacher who committed an act of violence against a student. Ms. Marshall noted that video footage from the classroom was reviewed with the teacher. The parent was notified and came to the school for a conference. Ms. Marshall stated that termination was recommended to the board. Mr. Boynton noted that the teacher resigned.

The following specific information was requested by the CSAC:

- Plan for establishing a Citizens Budget Oversight Committee;
- Copies of board policies and procedures;
- Plans for establishing a board oversight committee;
- Closure Plan; and
- Current year academic data that demonstrates positive student achievement.

Next Steps:

- An initial public hearing will be held on May 19, 2015, at 5:00 p.m., in the 2nd Floor Cabinet Room of the Townsend Building in Dover, DE.
- The applicant's written response to the CSAC Initial Report is due by 5:00 p.m. on June 1, 2015.
- The final meeting of the CSAC will be held on June 3, 2015, at 1:00 p.m., in the 2nd Floor Cabinet Room of the Townsend Building in Dover, DE.
- If, after the final meeting, CSAC recommends probation or revocation of the charter, a second public hearing will be held on June 10 at 5:00 p.m. in the 2nd Floor Cabinet Room of the Townsend building.
- The CSAC's Final Report will be issued no later than June 5, 2015.
- The public comment period closes on June 12, 2015.
- The Secretary will announce his decision at the June 18, 2015 State Board of Education meeting.