

STATE BOARD OF EDUCATION

STATE OF GEORGIA

**ATLANTA CITY BOARD
OF EDUCATION,**

Petitioner,

vs.

**ACHIEVE ACADEMY OF ATLANTA,
INC.,**

Respondent.

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CASE NO. 2008-02

DECISION

The Atlanta City Board of Education (Local Board) has petitioned the State Board of Education to terminate the charter of Achieve Academy of Atlanta, Inc., f/n/a KIPP Achieve Academy, Inc. (Achieve), under the provisions of O.C.G.A. § 20-2-2068 because of (1) Achieve's failure to adhere to the material terms of its charter, (2) Achieve's failure to meet generally accepted standards of fiscal management, and (3) substantial evidence that Achieve's continued operation is contrary to the best interests of the students or the community. Based upon evidence presented by the Local Board, Achieve's charter is revoked.

O.C.G.A. § 20-2-2068(3) provides that the State Board of Education may terminate the charter of a charter school "[u]pon the written request of a local board for termination of a charter ... if, prior to making such request, the local board provided reasonable notice to the charter school and an opportunity for a hearing, and determined the existence of any of the grounds described in paragraph (2) of this Code section."

Paragraph (2) of O.C.G.A. § 20-2-2068 provides that a charter may be terminated for the following reasons:

“* * *

(B) A failure to adhere to any material term of the charter, including but not limited to the performance goals set forth in the charter;

(C) A failure to meet generally accepted standards of fiscal management;

(E) The existence of competent substantial evidence that the continued operation of the charter school would be contrary to the best interests of the students or the community;”

Achieve was organized in October 2002 and granted a charter as KIPP Achieve Academy, Inc.¹ In November 2005, Achieve's board of directors sought to cease operations voluntarily but the school did not close so that the children could finish the year without being moved. In the spring of 2006, two members of Achieve's board of directors resigned and the sole remaining director notified the Local Board that Achieve wished to rescind the prior request to cease operations. The Local Board denied the request and sought to terminate Achieve's charter without a hearing. In August 2006, a superior court enjoined the Local Board from closing Achieve and ordered that Achieve should remain open during the 2006-2007 school year. In addition, the court ordered the Local Board to hold a hearing if it sought to close Achieve.

On June 7, 2007, the Local Board gave Achieve a notice that it would seek the termination of Achieve's charter and scheduled a hearing to determine if grounds existed for termination. A hearing was conducted on June 26, 2007, before a member of the State Bar of Georgia with both parties represented by an attorney. After the hearing, the hearing officer found that Achieve (1) failed to adhere to the terms of its charter, (2) failed to meet generally accepted standards of fiscal management, (3) failed to comply with the No Child Left Behind Act, and (4) failed to comply with Georgia law by only completing 161 days of school.² The hearing officer recommended immediate termination of Achieve's charter. The Local Board accepted the hearing officer's recommendation and, on July 9, 2007, filed a petition with the State Board of Education to terminate Achieve's charter.

Achieve argues that the petition should be denied because the Local Board waived any discrepancies in Achieve's operations by not giving Achieve formal notice of any violations until June 2007. Contrary to Achieve's argument, the Local Board first sought to terminate Achieve's charter in June 2006, but a superior court order stopped the termination action. Additionally, the Local Board was not under any pressure to seek termination of Achieve's charter since Achieve had voluntarily sought to terminate its charter in November 2005. Achieve remained open only to provide a stable environment to the students until the end of the 2005-2006 school year. The Local Board's efforts to terminate Achieve's charter began when Achieve's board of directors withdrew its request to cease operations in June 2006. The Local Board did not delay its notification to Achieve, nor is there any evidence of a waiver on the part of the Local Board.

Achieve next argues that the Local Board failed to properly allocate funds to Achieve in violation of O.C.G.A. § 20-2-2061, which caused Achieve to have budgetary problems. This issue was never raised during the hearing before the hearing officer and there is no evidence in the record to support Achieve's argument. The record shows that

¹ Achieve originally was affiliated with, and operated under license from, the KIPP Foundation. The KIPP Foundation, however, terminated its license and KIPP Achieve Academy, Inc. changed its name to Achieve Academy of Atlanta, Inc.

² The hearing officer's report covered 17 pages. The findings stated above, therefore, are only the broad categories covering the many findings made by the hearing officer.

in October 2006, the Local Board advised Achieve's principal of the amount that would be paid to Achieve during the 2007 fiscal year and that the amount was paid as outlined. Achieve, however, did not adjust its operations to fit the amounts it would receive or the actual student enrollment. The school was opened in the fall of 2006 with 14 teachers, 3 administrators, a business manager, and 3 paraprofessionals and only 55 students. Teachers were not paid on time and contributions were not made timely to the Teachers Retirement System of Georgia. At the time of the hearing, Achieve was in arrears at least \$11,146.67 to the Teachers Retirement System of Georgia. In addition to the amount owed to the Teachers Retirement System, Achieve owed \$42,500 on its lease and \$46,440 to its transportation vendor. The record shows that Achieve has been unable to exercise fiscal responsibility and thus fails to meet generally accepted standards of fiscal management.

The hearing officer found, and the record supports, that Achieve failed to adhere to material terms of its charter. The charter provides that Achieve would add 80 students per year until it reaches a total enrollment of 320 students, but the total student enrollment during the 2006-2007 school year ranged from 55 to 85. The charter provides that Achieve would operate for 215 to 220 days during the year but students only attended for 161 days during the 2006-2007 school year.

Based on the record presented, the State Board of Education finds that the Local Board provided Achieve reasonable notice of its intent to request termination of its charter, and provided Achieve with a hearing at which there was ample evidence presented that Achieve failed to adhere to material terms of its charter, failed to meet generally accepted standards of fiscal management, and that there is substantial evidence that the continued operation of Achieve would be contrary to the best interests of the students or the community. Accordingly, the charter of Achieve is hereby REVOKED.

This _____ day of September 2007.

William Bradley Bryant
Vice Chairman for Appeals