

STATE OF COLORADO BOARD OF EDUCATION 201 E. Colfax Avenue Denver, CO 80203	
IN RE: THE EXCLUSIVE CHARTERING AUTHORITY OF THE PUEBLO SCHOOL DISTRICT BOARD OF EDUCATION	^ BOARD USE ONLY ^
	2020-ECA-01
FINAL ORDER	

This matter is before the Colorado State Board of Education under § 22-30.5-504(7.5), C.R.S. Based on the record of materials submitted to the State Board and the hearing on August 13, 2020, the State Board FINDS and ORDERS as follows.

Procedural Matters

The Pueblo School for the Arts and Sciences (“PSAS” or “School”) filed a Notice of Request for Revocation with the State Board of Education on March 30, 2020, seeking to revoke the exclusive chartering authority of Pueblo School District No. 60’s Board of Education (the “District”). To accommodate the schedules of counsel and of the State Board, in light of the COVID pandemic, the parties stipulated to a hearing in June 2020. Following a procedural error by the State Board in June, the parties stipulated to a revised hearing date of August 13, 2020.

The School filed six exhibits totaling 175 pages (including cover pages) with its opening brief. The District filed six exhibits totaling 267 pages with its answer brief. No party challenged the relevance, authenticity, or admissibility of any exhibit from the other party.

On July 31, 2020, the State Board notified the parties of its intention to take notice of CDE records as reflected in Exhibit A-1. *See* § 24-4-105(8), C.R.S.; *cf.* CRE 201. The District objected on August 7, 2020, to which the School responded on August 11, 2020; each party submitted additional documents in support of their position on the CDE records. The Board accepted for filing the additional documents, thus resolving the objection noted by the District.

The Board conducted a public hearing on August 13, 2020, at which both parties appeared with counsel and client representatives.

Legal Framework

Section 22-30.5-504 provides a system of “exclusive” and “concurrent” chartering authority, to coordinate the chartering activities of school districts with those of the Colorado Charter School Institute. § 22-30.5-504(2), C.R.S. In this system, a school district retains its exclusive authority to establish charter schools if it has “a recent pattern of providing fair and equitable treatment to its charter schools.” *Id.* at (5)(a). A school district meets this standard by (1) fully complying with the Charter Schools Act, and (2) providing “any combination” of certain additional measures (from a list of six) that go above and beyond mere statutory compliance. *Id.*

The State Board may revoke a district’s exclusive chartering authority if the district does not have a recent pattern of satisfying this same standard. *Id.* at (7.5)(b); *cf. In re Exclusive Chartering Authority of the Littleton Public School Board*, State Board of Education Case No. 2019-ECA-02, pp. 2-3 (Mar. 11, 2020) (construing the standard for revocation), *available at* <http://go.boarddocs.com/co/cde/Board.nsf/goto?open&id=BGBJD94BFB47>.

Findings of Fact and Ultimate Fact

1. The District violated the Charter Schools Act by withholding per pupil revenues to offset an asserted debt, contravening the statutory framework in § 22-30.5-112, C.R.S. The parties have resolved this dispute.

2. The District violated the Charter Schools Act by failing to confer with PSAS over its 2019 mill levy ballot measure, as required by § 22-30.5-118, C.R.S. The measure passed, and the District shared the revenue fairly and equitably.

3. PSAS has not shown any violation of the Charter Schools Act with regard to annual accounting for withheld funds under § 22-30.5-112, C.R.S. The accounting is sufficient to allow the District’s charter schools to evaluate whether the charges are properly coded as required by statute, whether the charges are properly calculated, and whether the underlying services are actually provided.

4. The State Board need not decide whether the District has violated the State Board’s Accountability Act orders regarding Risley Middle School. The plain text of § 22-30.5-504(5)(a)(I), C.R.S., refers to violations of State Board orders as an element of “[f]ull compliance with the provisions of the ‘Charter

Schools Act’, part 1 of” Article 30.5 of Title 22 of the Colorado Revised Statutes. The Risley order did not arise under that statute. PSAS has therefore failed to establish any violation relevant to § 22-30.5-504(5)(a)(I), C.R.S.

5. The State Board need not decide whether the District breached its charter contract with PSAS by improperly handling certain complaints about the School. The plain text of § 22-30.5-504(5)(a)(I), C.R.S., refers to “[f]ull compliance with the provisions of the ‘Charter Schools Act’, part 1 of” Article 30.5 of Title 22 of the Colorado Revised Statutes. PSAS has not identified the *statutory* violation it believes arose from the alleged contractual breach. PSAS has therefore failed to establish any violation relevant to § 22-30.5-504(5)(a)(I), C.R.S.

6. PSAS does not allege a violation of any portion of Title 22, Article 30.5, Part 1 of the Colorado Revised Statutes, with regard to access to facilities or bond revenue. The School’s arguments relate not to full compliance with the Charter Schools Act required by § 22-30.5-504(5)(a)(I), C.R.S., but to the additional factors listed in § 22-30.5-504(5)(a)(II), C.R.S. Without some basis to make a finding on the remaining factors in § 22-30.5-504(5)(a)(II), C.R.S., the School has failed to carry its burden of proof.

7. Considering the foregoing findings together, the State Board finds that the two proven violations of the Charter Schools Act are isolated incidents and not part of a pattern of unfair or inequitable treatment.

BOARD ORDER

The State Board DENIES the School’s request to revoke the District’s exclusive chartering authority.

Dated this 13th day of August, 2020.



Dr. Angelika Schroeder, Chair
Colorado State Board of Education

CERTIFICATION OF MAILING

I hereby certify that I have provided a true and correct copy of the within FINAL ORDER this 17th day of August, 2020, via e-mail addressed to the following parties:

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