

Proposed Findings of Fact

NCDPI

Office of Charter Schools on behalf of the Charter Schools Review Board

Community School of Digital and Visual Arts - 32C

APPEAL BEFORE THE STATE BOARD OF EDUCATION

1. Community School of Digital and Visual Arts (“CSDVA”) (PSU 32C) is a charter school operating in Durham County and serving grades K-8, approximately 204 students, with a current Charter Agreement effective date of July 1, 2022. CSDVA’s original charter application was effective July 1, 1998, when the school was originally named “Carter Community School”.
2. The charter for CSDVA contained several binding provisions, including the following:

Grounds for termination

§26.1 – “The SBE may terminate this Charter on any of the following grounds:

- a. Failure to meet the requirements for student performance;
- b. Failure to meet generally accepted standards of fiscal management;
- c. Violation of law;
- d. Material violation of any of the conditions, standards, or procedures set forth in the Charter;
- e. Two-thirds of the faculty and instructional support personnel at the Public Charter School request termination or nonrenewal; or
- f. Other good cause warranting nonrenewal or termination.”

3. The Charter Agreement is due to expire June 30, 2025. [Attach 01]
4. NC General Statute requires the Charter Schools Review Board (“Review Board”) to review the operations (including the meeting of academic, financial, and governance standards) of each charter school prior to the expiration of its charter and to renew the charter up to a period of ten years, or not renew.

§ 115C-218.6. *Review and renewal of charters.*

(a) The Review Board shall review the operations of each charter school at least once prior to the expiration of its charter to ensure that the school is meeting the expected academic, financial, and governance standards.

(b) The Review Board shall renew a charter upon the request of the chartering entity for subsequent periods of 10 years, unless one of the following applies:

(1) The charter school has not provided financially sound audits for the immediately preceding three years.

(2) The charter school's student academic outcomes for the immediately preceding three years have not been comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located. For purposes of this section, if a school's charter results in it providing services to certain targeted subgroups, the school's academic performance shall be judged in comparison to the academic outcomes of students in the same subgroups in the local school administrative unit where the school is located.

(3) The charter school is not, at the time of the request for renewal of the charter, substantially in compliance with State law, federal law, the school's own bylaws, or the provisions set forth in its charter granted by the Review Board.

If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies, then the Review Board may renew the charter for a period of less than 10 years or not renew the charter. (2016-79, s. 1.2; 2023-107, s. 1(c); 2023-110, s. 1(e).)

5. The Renewal Process for each charter school takes place over a period of two years and begins with the submission of a letter of intent to renew and a Self-Study. This requirement is outlined in NC Administrative Code [16 NCAC 06G .0507](#).
6. CSDVA submitted the letter of intent to renew on July 31, 2023. [Attach 02]
7. CSDVA submitted its Renewal Self-Study on November 30, 2023. [Attach 03]
8. On January 17, 2024, the Office of Charter Schools (“OCS”) requested a copy of Board Meeting minutes from the CSDVA Board as there were no public meeting minutes posted to the school’s website. OCS staff review meeting minutes to ensure compliance with Open Meetings Law (Article 33C of NC General Statutes) as part of the compliance check within the Renewal Process. [Attach 04]

9. A renewal visit from the OCS took place at the school on January 23, 2024. Nicky Niewinski and Megan Carter attended and conducted the site visit on behalf of the OCS.
10. The renewal visit consisted of a tour of the school, brief classroom observations, and multiple interview groups including staff, board members, administration and families.
11. On January 25, 2024, the school was notified by the NCDPI Office of School Business that it was being placed on Financial Noncompliance Cautionary Status due to DPI not having received the FY23 Financial Statement Audit Report. [Attach 05]
12. On January 26, 2024 the school was sent feedback related to the renewal site visit. The feedback from OCS included, but was not limited to, the following required action items:
 - a. OCS has been made aware that the school has been placed on Financial Non Compliance for failing to submit the Financial Audit for FY23. Please take corrective action to have this resolved.
 - b. Submit the following Epicenter policy tasks:
 - o B2 - Student Promotion Requirements
 - o B4 - Adherence to By-Laws
 - Update Epicenter Board members to reflect school's current board
 - Send OCS Consultants examples of board minutes, with one specific to closed sessions minutes. *[This was the second request as the Board did not comply with the January 17 request to submit minutes.]*
 - o B7 - Board Student Discipline Policy

[Attach 06]

13. On May 9, 2024, the school was notified it was being placed on Governance Noncompliance Cautionary Status in accordance with [16 NCAC 06G .0506](#) for (1) failure to comply with the Charter Agreement and failure to follow State Law with regard to the schools Lottery Application and (2) failure to supply all reports and documentation as requested by the Office of Charter Schools to ensure legal compliance with General Statutes, State Board of Education rules in this Chapter, and the Charter Agreement. [Attach 07]

14. On May 16, 2024, the OCS Renewals Team contacted the school via email to remind them of the required action items from the Renewal Site Visit, including the request to review the board meeting minutes. A deadline of June 12, 2024 was given for the required items. [Attach 08]
15. On June 10, 2024, the school was notified it was being escalated to Governance Noncompliance Probationary Status due to a failure to come into compliance with all the items listed in the May 9, 2024 letter. [Attach 09]
16. On June 17, 2024 OCS followed up a second time on requests from the Renewal Site Visit via email as the items were not submitted by the deadline of June 12, 2024, with a reminder that all items for the Performance Framework had a final deadline of June 30, 2024. [Attach 08]
17. On July 15, 2024, the school was notified by the Office of School Business the school was being placed on Financial Noncompliance Disciplinary status for failure to submit the FY23 audit. Within the letter, it states that “[School Business] were notified by the school that the audit for the FY 22-23 fiscal year work has not yet started and would be completed in conjunction with the audit for FY 23-24 fiscal year.” [Attach 10]
18. On August 22, 2024, OCS consultant Jenna Cook contacted the school via email to inform the school of an upcoming meeting “to talk with school leadership about its current challenges and successes and review your progress with regard to being placed on Governance Noncompliance.” The meeting was scheduled for September 23, 2024 and the email requested confirmation of receipt. After no response, Ms. Cook then followed up with the school's leader via email on August 29, September 4, and September 12. The school leader responded after the September 12 email and confirmed the meeting. [Attach 11]
19. On September 23, 2024, OCS Consultants Jenna Cook and Nicky Niewinski met virtually via Microsoft Teams with Olufemi Adeniyi (CSDVA Principal), Brian Crawford (CSDVA Managing Director) and Ben Johnson (CSDVA Director of Operations).
20. During the meeting, OCS Consultants reviewed the continued items in noncompliance and asked for the board meeting minutes to be submitted to OCS for review.

21. During the meeting, OCS Consultants also inquired about the missing FY23 audit, in which the school disclosed that they still did not have an auditor on contract because their previous auditor had retired and the firms the school had contacted to replace the previous firm were either overwhelmed or did not have charter school experience.
22. OCS consultants informed CSDVA leadership that they would be before the Review Board regarding their Renewal in November, and emphasized that it would be important to be able to explain the non-compliance issues and the plan for corrective action in place.
23. On September 24, 2024, Jenna Cook sent an email to the CSDVA leadership as a follow-up to the meeting held on September 23, 2024. The email contained next steps for the school which included:
 - a. By Friday, September 27, email a copy of the board meeting minutes from two separate meetings to Jenna Cook and Nicky Niewinski. One set of minutes should be a meeting in which the board entered a closed session.
 - b. Consider posting all approved board meeting minutes to your website to allow for easy access and transparency to the public.
 - c. Continue to work on obtaining an auditor to complete both the FY23 and the FY24 audit. As a reminder, the audits will need to be completed before the Office of School Business can share the school's financial status with the Review Board for the school's renewal.
 - d. Talk with the Board Chair about the importance of emails coming from DPI and consider creating a school email account for the board chair to receive school specific emails. (if the email account is updated, please update this information in EDDIE).
 - e. Be on the lookout for information regarding the Renewal presentation to the Review Board in November. The board should be prepared to explain the areas of non-compliance and speak to a strategic plan and corrective actions.

[Attach 11]

24. On September 26, 2024, CSDVA was sent, via email, a request to report on the school's status academically, financially, and operationally at the regularly scheduled November meeting of the Review Board. This presentation is required of all renewal schools which do not qualify statutorily for a ten-year renewal.

[Attach 12]

25. On October 1, 2024, the Office of Charter Schools sent a letter via email to the leadership of CSDVA notifying of the significant compliance concerns (Failure to Adhere to Open Meetings Law and Failure to retain an auditor and submit an annual audit). Within the letter it was also noted the school was being escalated to Governance Noncompliance Disciplinary Status due to a failure to submit board meeting minutes as requested by the Office of Charter Schools. The Office of Charter Schools also provided a resource to assist the school in finding an auditor. [Attach 13]

26. At the [November 12, 2024, regularly scheduled Review Board meeting](#) Jenna Cook, OCS Consultant, presented a summary of the school's academic, compliance and financial history.

[See [Meeting Recording](#) - CSDVA begins at 02:35:17]

27. Jenna Cook presented the school's academic summary, including the following data:

- 2022 School Performance Grade = D
- 2023 School Performance Grade = D
- 2024 School Performance Grade = D
- 2022 Academic Growth = Met Growth
- 2023 Academic Growth = Met Growth
- 2024 Academic Growth = Exceeded Growth
- The school is continually low-performing.
- 2022 Grade Level Proficiency = 34.7%
- 2023 Grade Level Proficiency = 39.4%
- 2024 Grade Level Proficiency = 41.6%
- 2022 Academic Comparability to LEA = -9.3
- 2023 Academic Comparability to LEA = -8.5
- 2024 Academic Comparability to LEA = -5.4

[Attach 14]

28. Jenna Cook presented the school's current compliance standing:

- a. Governance Noncompliance, Disciplinary Status - Failure to supply all reports and documentation as requested by the Office of Charter Schools (Board Meeting Minutes).
- b. Non-Compliant on Renewal Performance Framework Measure B5: Compliance with Open Meetings Law – The board has not ensured meeting minutes are public records in compliance with 143-318.10 (e).

29. Jenna Cook presented the school's financial standing:
 - a. Financial Noncompliance, Disciplinary Status – School failed to submit audit for the 2022 – 2023 School Year.
30. CSDVA's Principal, Mr. Adeniyi gave an overview of the school, including demographic data, and the mission of the school. He noted they have met academic growth each of the last three years and they are looking to improve their performance grade. Additionally he shared some goals for the school and interventions in place to achieve goals.
31. CSDVA's Board Chair, Mr. Joe Battle introduced himself and thanked the principal for the strong success his school has seen in the strong performance growth scores. He addressed some of the compliance concerns that were raised and said the auditor will have an audit and the minutes will be handled as well. He stated that turnover is what really caused a lot of these issues but as they fill these positions they will get out of non-compliance.
32. The Review Board then directed questions to the school. Mr. Bruce Friend, Chair of the Charter Schools Review Board, asked who is doing the financial audit and a board member shared the name of the company. After discussion with the treasurer on when audits for the last several years would be completed, Mr. Friend asked if the audit hadn't been submitted because it didn't exist, and the treasurer confirmed this.
33. Mr. Friend asked why the board minutes weren't up on the website and the board chair stated there was high staff turnover and their website for the last year was being updated. He said that it was a lot of change and that he was working with the staff to get through it all. Mr. Friend said that it doesn't take a year to get minutes onto a website and that it appears he is bucking the responsibility onto the staff when he as the board chair is responsible for governing the school. Mr. Battle highlighted the process they went through when they did have staff and said they will be working to get them up after downloading the recordings of the meeting and getting them uploaded from there.
34. Mr. Dave Machado, Review Board Member, said that he was concerned about the operation of the school and said that a school that was opened in the beginning – back in 1998 – shouldn't really have these issues. Mr. Battle stated the staff shortages and the fact the LEA failed to fulfill their duties in some regard really compounded their issues. He said that this is just an anomaly.

35. Dr. Rita Haire, Review Board Member asked if there was a notification to the school about the financial noncompliance and he (Mr. Battle) said yes. Dr. Haire said it was concerning that no action was taken even after the notice was given.
36. Mr. Friend said that yes, he is being tough, but the Review Board is impressed with the growth. He said however that the board holds the charter not the principal or the staff and that these issues need to be addressed come January or he will be forced to vote between 3-year and non-renewal.
37. At the [January 13, 2025, regularly scheduled Review Board meeting](#), Jennifer Bennett, Senior Director, School Business NCDPI, presented the Renewal Schools Financial Review. Ms. Bennett's presentation included statements of concern for CSDVA due to no audit report for FY23 or FY24 and the school's declining average daily membership (ADM). [Attach 15]
38. Pursuant to the approved [State Board Policy governing charter school renewals](#), the charter school renewal process involves the in-depth review of the previous three years of fiscal, academic, operational, and governance compliance data. Nothing precludes the review of historical data spanning further than three years. DPI's School Business Division records evidence the following historical fiscal compliance timeline:
- a. May 5, 2016 - Carter Community Charter 32C placed on cautionary financial noncompliance for failure to respond to information requests.
 - b. November 27, 2017 - Carter Community Charter 32C notified of a General Fund concern impacting fiscal health.
 - c. February 15, 2018 - Carter Community Charter 32C placed on cautionary financial noncompliance for signs of financial insolvency or weakness.
 - d. November 5, 2018 - Carter Community Charter 32C elevated from cautionary to probationary noncompliance status after review of the 2018 audit determined the school continues to exhibit increasing signs of financial weakness.
 - e. March 3, 2020 - Carter Community Charter 32C notified the school remains on probationary noncompliance status after review of the 2019 audit determined the school continues to exhibit significant signs of financial weakness.
 - f. March 19, 2021 - Carter Community Charter 32C notified that review of the 2020 audit shows an improvement in the school's financial health, and as a result the noncompliance status changed from probationary to cautionary.

- g. January 10, 2022 - CSDVA notified it was removed from financial noncompliance status due to the 2021 audit showing continued signs of improvement.
- h. June 14, 2023 - CSDVA placed on cautionary financial noncompliance for failure to remit the FY22 Financial Statement Audit which is due each year on October 31.
- i. September 28, 2023 - CSDVA was elevated from cautionary financial noncompliance status to disciplinary status due to the failure to remit the 2022 audit, which at this time was eleven months past due. In addition, School Business noted a failure to communicate with NCDPI concerning its past due Financial Statement Audit.
- j. October 10, 2023 - CSDVA was removed from disciplinary status due to receipt of the FY22 Financial Statement Audit.
- k. January 25, 2024 - CSDVA placed on cautionary financial noncompliance for failure to remit the FY23 Financial Statement Audit which is due each year on October 31.
- l. July 15, 2024 - CSDVA was elevated from cautionary financial noncompliance status to disciplinary status due to the failure to remit the FY23 Financial Statement Audit which is due each year on October 31. School Business noted that the school had notified School Business that the audit for FY23 has not yet started and would be completed in conjunction with the audit for FY24.

[Attach 16]

39. At the [January 13, 2025, regularly scheduled Review Board meeting](#), CSDVA was asked to come forward to answer questions of the Charter Schools Review Board. The [January 13, 2025 Charter Schools Review Board Meeting Recording](#) (CSDVA begins at 1:22:50) reflects the following:
- a. Mr. Joe Battle (CSDVA Board Chair) – introduced himself and the other members present before the board today. Others attending were Bryan Crawford, previous Executive Director (“ED”), Mr. Adinyi, Principal, and Mr. Johnson, Operations manager.
 - b. Mr. Battle said that the two years of audits is unacceptable and said that he understands the board’s concern. He reiterated that the school recently lost their bookkeeper, auditor, and Executive Director Crawford transitioned to a different role. He said that it was difficult to find an auditor and that’s why they’re where they are today.

- c. Mr. Battle referenced a letter from their auditor and stated that they would have a clean '23 audit this week and a '24 audit in February. He said this is unusual for the school to be in this situation.
- d. Review Board members asked about the compliance issues raised such as lack of fire inspection documentation and board meeting minutes.
- e. CSDVA presenters stated they were working on the board meeting minutes, that the board would investigate other compliance issues, and that not having an ED on staff has made it difficult to maintain compliance.
- f. Mr. Machado (Review Board Member) expressed concern that given two years without audits, the school is the only one knowing what is going on and that can be very dangerous.
- g. CSDVA presenters cited staffing issues as a challenge.
- h. Dr. Shope (Review Board Member) asked what their staffing plan is, especially in reference to the ED position. CSDVA presenters spoke about wanting to have a clearer financial position to make those decisions and being able to afford an ED.
- i. Dr. Haire (Review Board Member) stated that it took CSDVA about 18 months to engage an auditor after being notified that the previous auditor was unavailable. She summarized the challenges faced by the school regarding compliance and a delay by the school in responding to those issues.
- j. Review Board members stated the board meeting minutes are not on the website at this moment. A CSDVA member stated they are working on that.
- k. Mr. Friend (Review Board Chair) asked how many board members are present today and Mr. Battle said Mr. Palmer (CSDVA Board Member) had to leave earlier, so two of five attended.
- l. Mr. Friend asked if they had a head of school / principal and Mr. Battle said yes. Mr. Friend stated that with 210 students you have a head of school/principal, Director of Operations, and that they once also had an ED. Mr. Battle said the ED had a superintendent sort of role and Mr. Adinyi handled academics.
- m. Mr. Friend mentioned his concerns about transparency and lack of board meeting minutes. He stated we don't know what the board is doing, how often they are meeting. He stated the meeting minutes are not on the website - there are a few minutes posted for each of the last previous years, but no consistency. He asked that the Review Board not be told the minutes are up online when they are not. Mr. Friend asked if they met in 2024 because there are no records online. Mr. Battle said they meet eight times per year. Mr. Friend asked why they are not posted at this time.

- n. Mr. Friend listed the leadership of the school, and that there are five board members, and said that he's wondering why they are saying they don't have the hands to do these things. A CSDVA representative said that they did have a reduced staff but recently deputized someone to put the minutes to paper and on the website.
 - o. Mr. Friend asked who the auditor is. Mr. Battle stated Sharpe Patel. Mr. Machado asked when they were engaged. Mr. Battle stated late last year.
 - p. Ms. Baquero (OCS Director) clarified the timeline of these concerns when the renewal process began close to 2 years ago. She explained the governance noncompliance timeline, correspondence shared with the school, and explained that staff members met directly with the school and board representatives to reiterate the need for submissions such as the audit and board meeting minutes. She stated that the meeting with OCS staff took place in September 2024 as a final push to get these things submitted.
 - q. Mr. Battle said that what Ms. Baquero said was fair but reiterated that they don't have an ED. He said they are issuing corrective action and reiterated that they are performing well academically with a challenging population. Mr. Battle said he would take the blame on the board side but the academic side is doing well.
 - r. Dr. Haire asked when the ED stepped away. Mr. Battle stated Mr. Crawford has been transitioning his role, decreasing the amount of time spent as ED, since September 2023.
 - s. Dr. Eldridge (Review Board Member) commented that the discussion today is not really about the students and their performance, but it should be about taking accountability for their actions.
 - t. Mr. Godbey (Review Board Member) asked for the responsibilities of the three administrators listed on their website. The Board member said the principal is in charge of academics, the second administrator is in charge of operations and other school functions, and the third administrator is in charge of compliance based issues.
 - u. Dr. Haire asked if Mr. Crawford is serving in the interim role and Mr. Crawford said yes and he is being compensated as an independent contractor for his work.
40. Following CSDVA's presentation and discussion with the CSRB, the Review Board found that Community School of Digital and Visual Arts did not meet the academic, financial, and governance standards required for charter renewal. Specifically, the Review Board's decision for non-renewal of the charter was based on the following:

- a. Failure to meet generally acceptable standards of fiscal management; See N.C.G.S. 115C-218.95(a)(2)
 - b. Material violation of any of the conditions, standards, or procedures set forth in the charter; See N.C.G.S. 115C-218.95(a)(4)
 - c. Other good cause identified - The school's governing board has demonstrated a lack of appropriate governing oversight. The deficiencies include, but are not limited to, the failure of the board to ensure proper operational compliance and a lack of transparency on behalf of the board due to a failure to post full and accurate board minutes, a board calendar, and not submitting financial audits for the past two years. See N.C.G.S. 115C-218.95(a)(6).
41. The motion to not renew the charter for CSVDA passed, 6 in favor, 2 opposed. Review Board members Eric Sanchez and Alex Quigley opposed the motion.
42. The Review Board's decision to nonrenew is consistent with N.C.G.S. § 115C-218.6 which states the "State Board may renew the charter for a period of less than 10 years or not renew the charter" if a charter school does not meet the criteria for a 10 year renewal term.
43. The Review Board's decision to nonrenew is consistent with N.C.G.S. § 115C-218.95 which allows the State Board to terminate, not renew, or seek applicants to assume a school's charter if any of the following apply:
- (1) Failure to meet the requirements for student performance contained in the charter;
 - (2) Failure to meet generally accepted standards of fiscal management;
 - (3) Violations of law;
 - (4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
 - (5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed;
 - or (6) Other good cause identified.
44. Additionally, "[i]f a charter school is continually low-performing, the [SBE] is authorized to terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the [SBE]." N.C.G.S. § 115C-218.95(b1).
45. The charter is set to expire June 30, 2025. If the nonrenewal is upheld, the school will continue operations until the end of this school year, allowing students to complete the school year as well as end of grade state testing.