

CONNECTICUT STATE BOARD OF EDUCATION
Hartford

TO BE PROPOSED:

May 23, 2018

RESOLVED, That the State Board of Education, pursuant to subsection (i) of Section 10-66bb of the Connecticut General Statutes, initiates the state charter revocation process for Path Academy, subject to the Commissioner's May 23, 2018, memorandum to the State Board of Education, and directs the Commissioner to take the necessary action.

Approved by a vote of _____, this twenty-third day of May, Two Thousand Eighteen.

Signed: _____
Dr. Dianna R. Wentzell, Secretary
State Board of Education

**CONNECTICUT STATE BOARD OF EDUCATION
Hartford**

TO: State Board of Education

FROM: Dr. Dianna R. Wentzell, Commissioner of Education

DATE: May 23, 2018

SUBJECT: Initiation of Charter Revocation Process – Path Academy, Windham

Executive Summary

Introduction

The purpose of this proposed action is to initiate the process for revoking the charter of Path Academy for the reasons set forth in this Memorandum. A revocation of the charter, if ordered, would not take effect until after the conclusion of the current school year.

Connecticut General Statutes Section 10-66bb(i) authorizes the State Board of Education (SBE) to revoke a charter if the charter school has failed to do any of the following:

1. Comply with the terms of probation, including the failure to file or implement a corrective action plan;
2. Demonstrate satisfactory student progress, as determined by the commissioner;
3. Comply with the terms of its charter or applicable laws and regulations; or
4. Manage its public funds in a prudent or legal manner.

In accordance with C.G.S. Section 10-66bb(i), prior to revoking a charter, the SBE must – unless an emergency exists – provide the charter school governing council with a written notice of the reasons for revocation, including the identification of specific incidents of noncompliance with the law, regulation or charter or other matters warranting revocation of the charter. In addition, the SBE must also provide the charter school governing council with an opportunity to demonstrate compliance with all lawful requirements for retention of the charter by providing an oral or written presentation to either the SBE itself or a subcommittee thereof, as determined by the SBE. This presentation must include an opportunity for the governing council to present documentary and testimonial evidence to refute the facts cited by the SBE for the proposed revocation or in justification of its activities. The law provides specifically that this opportunity does not constitute a contested case pursuant to the Uniform Administrative Procedure Act. C.G.S. Section 10-66bb(i).

History/Background

In 2013, Path Academy applied for a charter to operate a school in Windham. The SBE granted Path Academy’s charter on June 5, 2013, for the period July 1, 2014 through June 30, 2019. The school opened in the fall of 2014. In applying for its charter, Path Academy reported that its

mission would be to re-engage the Windham region's over-age, under credited (OU) students in education, supporting them through mastery of the critical skills necessary for success in college, career and community. Path Academy receives various services relating to management of its operations from Our Piece of the Pie, a non-profit serving in the role of charter management organization (CMO).

In late October 2017, the CSDE received information indicating that Path Academy may have been operating a satellite location of its charter school at a site in Norwich. Because the charter did not authorize Path Academy to operate additional locations beyond the Windham school facility, CSDE began to investigate. In early December 2017, CSDE conducted an unannounced visit to the Norwich site located at 309 Otrobando Avenue, Norwich, CT and confirmed that it was being used as a second location of the school. Consequently, on December 8, 2017, the Commissioner directed Path Academy, by letter, to immediately cease and desist the Norwich operation and on January 8, 2018, the Commissioner placed Path Academy on probation for a period of up to one year pursuant to Section 10-66bb(h) of the Connecticut General Statutes (C.G.S.).¹

As part of probation, CSDE's Office of Internal Audit conducted a review of Path Academy's October 2016 and October 2017 PSIS data submissions to CSDE to verify student enrollment numbers and determine the location(s) at which students were reported to have been enrolled. The Office of Internal Audit also sought records and information directly from Path Academy, including during an all-day site visit at the Windham location.

Proposed Reasons for Initiation of Charter Revocation Process

As a result of the review and audit activities initiated at the time of probation, CSDE has identified several areas of significant concern which, in CSDE's judgment, constitute appropriate reasons for the SBE to initiate the charter revocation process pursuant to C.G.S. Section 10-66bb(i).

It is important to note that the reasons set forth below do not reflect final findings or conclusions by CSDE but rather provide an appropriate basis for raising these issues with the SBE for consideration of whether to initiate the charter revocation process. A decision to revoke the charter may be made only by the SBE, and only after completion of the process, which includes an opportunity for the charter school to be heard and provide evidence in response, as noted above.

I. Unauthorized Satellite Locations

CSDE confirmed that Path Academy was operating two satellite locations, one in Norwich and one in Hartford, while including the students who were purportedly attending school in these locations in the enrollment data it reported to CSDE for obtaining payment of the charter per

¹ The following documents are included as attachments hereto: The Board report and resolution concerning SBE's approval of Path Academy's Charter (Attachment A), The Commissioner's January 8, 2018 probation letter (Attachment B), a letter dated January 16, 2018 from Path Academy and Our Piece of the Pie (Attachment C), and spreadsheets prepared by the Office of Internal Audit reflecting the information it obtained in its review (Attachment D).

pupil grant. Path Academy's charter did not include provisions authorizing the operation of satellite locations.

The Office of Internal Audit conducted a review and confirmed that 40 students included in Path Academy's October 2016 PSIS submission (which determines the amount of the total per pupil grant paid to a charter school) were not in fact enrolled at the Windham school authorized by the charter. Rather, according to Path Academy's records, these students were attending school at the Norwich or Hartford locations. In addition, the Office of Internal Audit's review confirmed that 42 students included in the October 2017 PSIS submission were not enrolled at the authorized school in Windham but rather were said to be attending school in the satellite locations.

As a condition of probation, Path Academy was required to report any additional satellite locations to CSDE by January 15, 2018. It did not report the Hartford location at this time and, on January 16, 2018, Path Academy and its CMO, Our Piece of the Pie, represented to CSDE that the Norwich site had been closed and that there were no other satellite locations. On May 10, 2018, Our Piece of the Pie notified the Commissioner of the Hartford location and reported that it had been closed. On May 11, 2018, Our Piece of the Pie provided CSDE with documentation that confirmed students reported in the PSIS were enrolled at the Hartford satellite location. Records provided by the school indicate that the Hartford location was in operation for the 2016-17 school year and a portion of the 2017-18 school year.

The operation of the satellite locations and seeking state per pupil grant funds for the students assigned to these locations constitute reason to initiate the charter revocation process because these practices indicate a failure to comply with the terms of the school's charter and to manage state funds in a prudent or legal manner. See C.G.S. Section 10-66bb(i)(3), (4). In not timely reporting the Hartford location, the school failed to comply with a term of probation, and this also constitutes reason for initiating the revocation process. See C.G.S. Section 10-66bb(i)(1).

II. Failure to Provide Appropriate Records to Support Reported Enrollment

During the review, the Office of Internal Audit made multiple attempts to obtain school records to check if the school had documentation to back up the student enrollment numbers it reported in PSIS in the 2016-17 and 2017-18 school years. Path Academy repeatedly demonstrated an inability to provide documentation to confirm enrollment as of the required date of October 1st in each of the two school years. As a result, the Office of Internal Audit requested the submission of report cards for each student.

Of the 157 students reported in PSIS for the 2016-17 school year, report cards were provided for 71 students. In 2016-17, Path Academy received a state per pupil grant award of \$1,727,000, based on reported enrollment (\$11,000 per student X 157 students). This included 86 students for whom the school could not provide report cards. Of the 174 students reported in PSIS for the 2017-18 school year, report cards were provided for 100 students. In 2017-18, Path Academy received a state per pupil grant award based on 157 students for a total of \$1,727,000 per SBE's charter seat allotment. This included 57 students for whom the school could not provide report cards (and the total reported enrollment included 74 students for whom the school could not provide report cards).

The per pupil grant payments for the 128 students for whom the school lacked appropriate documentation to support enrollment represents a potential overpayment of \$1,573,000 to Path Academy over the two-year period.

The failure to maintain records establishing that students who were reported as enrolled in the data used to determine the per pupil grant payment were actually enrolled and attending school constitutes, at a minimum, failure to manage state funds in a prudent or legal manner. See C.G.S. Section 10-66bb(i)(4). In addition, the failure to maintain such records while applying for and accepting the state charter per pupil grant is inconsistent with the responsibilities that charter schools have pursuant to their charters and applicable statutes regarding verifiable student enrollment data and appropriate stewardship of state funds. See C.G.S. Sections 10-66ee(d)(1) (state must pay per pupil grant based on student enrollment information); 10-66pp (CMOs and charter schools must annually file a certified audit statement of revenues and expenditures and IRS Form 990); see also C.G.S. Section 10-66dd(b)(1) (except as may be waived, charter schools are subject to all laws governing public schools).

III. There is Evidence Suggesting that a Significant Number of Students Reported as Enrolled are Not Regularly Attending School

Evidence obtained by CSDE suggests that many of the students who were reported as enrolled in Path Academy did not regularly attend school.

First, the school reports an extremely high absenteeism rate. For example, of the 71 students for whom CSDE received report cards from Path Academy for the 2016-17 school year, the report cards indicate that student absences range from 20 to 173 days. Furthermore, according to the records, 65 percent of these students were absent 100 or more days, and 50 percent were absent 130 or more days. For the 2017-18 school year, which is still in progress, the report cards produced by Path Academy indicate that student absences range from 13 to 127 days so far this year for the 100 students that received report cards. Of these students, 65 percent were absent 50 or more days and 33 percent were absent 100 or more days.

Second, during site visits to the Windham location, Path Academy staff reported, and CSDE staff observed, far fewer students in attendance than were reported as enrolled. For example, during a site visit on May 15, 2018, school staff reported that 46 students were at school that day and 42 students had attended school the day before (out of a reported 2017-18 enrollment of 174).

Finally, as noted in Section II above, Path Academy was unable to produce records establishing that numerous students reported as enrolled were actually enrolled and attending school. The lack of such records is problematic not only because it indicates potential significant overpayment of state funds, as noted above, but also because it is some evidence that the students were not attending school. While it is certainly possible for a school to educate students without maintaining the type of student educational records typically maintained by schools, in considering whether to initiate the revocation process, the SBE may reasonably take into account the fact that the school produced report cards for some students and not for others.

The foregoing concerns provide reason for initiating the revocation process pursuant to subsection (i)(3) of C.G.S. Section 10-66bb (failure to comply with the terms of charter or applicable laws or regulations), subsection (i)(4) (failure to manage public funds in a prudent or legal manner), as well subsection (i)(2) (failure to demonstrate satisfactory student progress).

IV. School Policies Not Authorized by the Charter

Based on the report cards provided by Path Academy, it appears that it was providing part time education to some of its students, while receiving the full per pupil grant payment for these students. The school's charter does not authorize part time education.

Based on CSDE's review of the report cards for 2016-17, 59 students were determined to be full time (4 or more classes) and 12 students were determined to be part time (3 or less classes). For the 2017-18 school year, 73 students were determined to be full time and 27 students were part time. The state charter school grant does not provide for a per pupil allocation for part time students.

In addition, during the site visit on May 15, 2018, Path Academy disclosed to CSDE that it had, apparently until recently, an attendance policy permitting students to work from home. CSDE does not know how long the policy was in effect. The new principal, who reportedly started approximately two months ago, ended this policy. The school's charter does not authorize it to permit students to work from home.

At a minimum, the foregoing concerns suggest that the school failed to comply with the terms of its charter, which constitutes reason for initiation the revocation process pursuant to C.G.S. Section 10-66bb(i)(3), and failed to manage public funds in a prudent or legal manner, which constitutes such reason pursuant to C.G.S. Section 10-66bb(i)(4).

Recommendation and Next Steps

Based on the information gathered as set forth above, CSDE has determined that the foregoing reasons constitute an appropriate basis for the SBE to initiate charter revocation proceedings in accordance with C.G.S. Section 10-66bb(i), subject to the condition that students currently enrolled in Path Academy will be permitted to complete the remainder of the current school year. Should the SBE vote to initiate this process, CSDE would promptly send the governing council of Path Academy this Memorandum as notice of the reasons for revocation as required by C.G.S. Section 10-66bb(i).

The next step in the process would be a special meeting of the SBE, or of a committee of the SBE, to be held on June 19, 2018, at which Path Academy would have "the opportunity to demonstrate compliance with all requirements for the retention of its charter by providing the [SBE] or a subcommittee of the [SBE] with a written or oral presentation [including] an opportunity . . . to present documentary and testimonial evidence to refute the facts cited by the [SBE] for the proposed revocation or in justification of its activities." C.G.S. Section 10-66bb(i).

The SBE would then have 30 days to render its decision in this matter.

Prepared by: Robert E. Kelly
Charter School Program Manager
Turnaround Office

Nora Chapman
Supervising Accounts Examiner
Office of Internal Audit

Approved by: Desi D. Nesmith,
Chief Turnaround Officer
Turnaround Office

Peter M. Haberlandt
Director of Legal Affairs