
BEFORE THE TENNESSEE STATE BOARD OF EDUCATION

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) **State Board of Education Meeting**
) **February 5, 2021**
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IN RE:
INTREPID COLLEGE PREP
Charter School Amendment Appeal

**FINDINGS AND RECOMMENDATION REPORT
OF THE EXECUTIVE DIRECTOR**

Pursuant to Tennessee Code Annotated (T.C.A.) § 49-13-110 and State Board of Education rule 0520-14-01-.06, a charter school that has its petition to amend its charter agreement denied by their charter school authorizer may appeal the denial to the State Board of Education (State Board). On December 4, 2020, Intrepid College Prep (Intrepid) appealed the denial of its petition to amend its charter agreement by the Metropolitan Nashville Public Schools (MNPS) Board of Education to the State Board. Based on the following procedural history, findings of fact, and analysis of the issues, I believe the decision to deny Intrepid’s amendment petition was not contrary to the best interests of the students, LEA, or community. Therefore, I recommend that the State Board uphold the decision of the MNPS Board of Education to deny the petition to amend Intrepid’s charter agreement.

STANDARD OF REVIEW

Pursuant to State Board rule 0520-14-01-.06, State Board staff conducted a review of the documentation included in the notice of appeal regarding the decision to deny the amendment petition, including additional information gathered by State Board staff from both MNPS and Intrepid. Additionally, the State Board held a virtual public hearing with the Executive Director sitting as the Board’s designee and collected public comment.¹

In order to overturn the decision of the local board of education, the State Board must find that the local board’s decision to deny the charter amendment petition was contrary to the best interests of the students, LEA, or community.

¹ A virtual hearing was held due to restrictions on in-person gatherings as a result of COVID-19.

In this case, the State Board has the ability to affirm the MNPS decision to deny the amendment petition or overturn the decision of MNPS and remand the decision to MNPS with written instructions for approval of the amendment. In either case, MNPS shall remain the authorizer.

PROCEDURAL HISTORY

1. On May 29, 2012, the MNPS Board of Education approved the charter application for Intrepid to open a charter school serving grades five (5) through twelve (12).
2. On May 29, 2013, the MNPS Board of Education executed a charter agreement with Intrepid.
3. Intrepid began operation at the start of the 2013-14 school year, serving grade five (5) and growing by one grade level each year through grade twelve (12).
4. On September 1, 2020, Intrepid submitted a letter of intent to amend its charter agreement to the MNPS Office of Charter Schools.
5. On October 1, 2020, Intrepid submitted an application to amend its charter agreement to the MNPS Office of Charter Schools.
6. On November 24, 2020, the MNPS Office of Charter Schools presented its findings regarding the Intrepid amendment application at the MNPS Board of Education meeting. The MNPS Board of Education voted to deny Intrepid's amendment application.
7. On December 4, 2020, Intrepid appealed the denial of its amendment application in writing to the State Board.
8. On December 7, 2020, the State Board sent a request for additional information to Intrepid and MNPS.
9. On January 12, 2021, State Board staff held a virtual public hearing. At the public hearing, the Executive Director, sitting as the State Board's designee, heard presentations from Intrepid and MNPS, and took public comment.

FINDINGS OF FACT AND ANALYSIS

Intrepid was approved by the MNPS Board of Education in 2012 and began operation in the 2013-14 school year. The school currently serves grades five (5) through twelve (12) in the Antioch community of southeast Nashville. On October 1, 2020, Intrepid applied to the MNPS Board of Education to amend its charter agreement to gradually increase the school's maximum enrollment by 96 seats from 864 students to 960 students by the 2023-24 school year. In their amendment application, Intrepid explained that this request would allow the school to expand programmatic offerings at the high school and

accommodate increased demand for its middle and high school program that the school has experienced over the past three (3) years based on the population increase in southeast Nashville.²

On November 24, 2020, the MNPS Office of Charter Schools presented the results of its review of the Intrepid amendment application at the MNPS Board of Education meeting. The Office of Charter Schools provided the MNPS Board of Education information regarding the findings of the MNPS review team that the Intrepid amendment application met the standards of the rubric for approval.³ The Office of Charter Schools noted in its presentation to the MNPS Board that Intrepid received a TVAAS composite score of three (3) in 2017-18 and two (2) in 2018-19, that Intrepid was designated a Reward School in 2015 and 2018, and that the school has met operational and financial requirements. However, after review and discussion of the findings of the Office of Charter Schools, the MNPS Board of Education voted to deny the Intrepid amendment application on the following grounds: (1) A lack of projected seats needed in the area due to current and future capital projects; (2) Intrepid has not consistently met and exceeded academic expectations on TN Ready exams; and (3) An increase to a charter school's maximum enrollment should not be addressed through a contract amendment. On November 24, 2020, the MNPS Office of Charter Schools sent a notification to Intrepid regarding the Board's vote and reasons for denial.

At the public hearing conducted by State Board staff, MNPS defended its decision to deny Intrepid's amendment application, noting first that the Board's denial was in part based on a lack of need for seats in the Antioch area in the coming years. Specifically, MNPS noted that it has purchased land and allocated funds for a new middle school in the Antioch area which will add 600 middle school seats within the next two (2) to three (3) years. Additionally, MNPS cited to a plan to expand Cane Ridge High School to add an additional 480 high school seats in the Antioch area. The expansion to the high school has been approved by the MNPS Board and is awaiting funding from the city to move forward with construction.⁴ Together, these projects will add over 1,000 seats to the Antioch area by the 2024-25 school year. MNPS argued that overturning the denial would undermine long-term planning that MNPS has already undertaken to open up additional seats in the Antioch area, and would reward Intrepid's failure to accurately project enrollment in their charter application.

MNPS also argued that the denial of Intrepid's amendment application was in the best interests of the students, the LEA, and community because Intrepid has seen a decrease in its academic data over the past three (3) years. While MNPS acknowledged that Intrepid's academic data is higher than the district average and met the academic standard in the rubric, Intrepid's math and English language arts TN Ready scores are below state averages and have shown a decline over the past three (3) years. MNPS noted Intrepid's TN Ready scores in math have decreased drastically from 60.4% in 2016-17 to 35.4% in 2018-19. Additionally, TN Ready scores in English language arts have decreased from 33.6% in 2016-17 to

² During the public hearing, Intrepid instead argued that the amendment request would allow them to accept larger 5th and 9th grade classes next school year. Intrepid stated that without the amendment the school would have to accept a smaller 5th grade class.

³ During the public hearing, MNPS stated that they used the state's application rubric to score the application, but no documentation was provided. Additionally, MNPS noted that the review committee focused on all aspects of MNPS's Performance Framework when evaluating the school's academic performance.

⁴ In response to questions, MNPS noted that, if funded by the city this year, the high school addition would take approximately three (3) years to complete.

30.9% in 2018-19.⁵ MNPS also pointed to a downward trend in TVAAS scores from a three (3) in 2017-18 to a two (2) in 2018-19. Finally, MNPS explained that while Intrepid has the ability to request an amendment to increase its enrollment, the Board did not feel that Intrepid demonstrated any material change in circumstances in order to justify its request to add additional seats via an amendment request, noting that the Board felt that the addition of seats is something that should be addressed during Intrepid's renewal application in 2023. The Board also stated that allowing the amendment request would reward Intrepid's failure to properly anticipate and manage its enrollment according to the charter agreement.

In response to the reasons for denial cited by the MNPS Board of Education, Intrepid presented evidence supporting their request to increase their maximum enrollment by 96 seats over the next three (3) years.⁶ Specifically, Intrepid advocated that the amendment request would allow Intrepid to respond to an increase in community demand that the school has experienced over the past three (3) years, and to move more students off of the waitlist.⁷ In response to MNPS's academic concerns, Intrepid noted that it outperforms the district's TN Ready averages in math and English language arts and that its first graduating class⁸ achieved an average ACT score of 22, above the MNPS and state average ACT score. Intrepid also noted that while the school has seen a double-digit increase in English learner (EL) enrollment, its EL WIDA ACCESS data outperforms the district. Intrepid highlighted that it has a waitlist representing 15% of its enrollment, that the school retains 87% of its students each year, and that the organizational health of the school is strong, with seven (7) years of clean audits, a strong board, and a successful CEO succession plan to address its recent change in leadership.

In response to questions about the conflicting current enrollment counts included in Intrepid's amendment application, Intrepid clarified that its current enrollment consists of 881 students in grades five (5) through twelve (12), which is over its current enrollment cap.⁹ However, Intrepid explained the request to increase the enrollment cap to 960 will allow the school to take in larger 5th grade and 9th grade classes. Without the amendment, Intrepid explained it will have to accept a smaller 5th grade class next school year to ensure the school stays within its current enrollment cap, which could cause long-term issues. Additionally, in response to questions regarding how Intrepid is planning to improve academic performance, Intrepid leadership acknowledged that its data is not where they want it to be. Intrepid outlined a number of changes that have been recently implemented by the school in an effort to raise academic achievement, including re-writing assessments and professional development, implementing

⁵ Due to the suspension of state testing caused by COVID-19 school closures, there is no academic data to report for the 2019-20 school year.

⁶ Intrepid's charter agreement expires at the end of the 2023-24 school year. This amendment proposal extends through the remainder of the school's charter term.

⁷ The Intrepid amendment application also stated that the enrollment increase would allow the school to expand high school course offerings; however, that reason was not mentioned during the public hearing.

⁸ Intrepid noted that its graduating class consisted of 34 students.

⁹ Intrepid attributed the over-enrollment to a glitch in MNPS's enrollment system that enrolled too many students in Intrepid at the beginning of the 2020-21 school year. Intrepid clarified that at the beginning of the school year 915 students appeared in their student information system as enrolled, but the school's actual enrollment is 881.

specialized department chairs, adding additional math remediation courses, and overhauling the curriculum to align with the ACT.

A portion of the public hearing was dedicated to taking public comment. Eleven (11) public comments from parents and grandparents of students were submitted and read into the record at the public hearing. Ten (10) comments were in support of the school's amendment request and one (1) was opposed. Additionally, the State Board received 75 written comments in support of the school's amendment request and one (1) that was opposed.

Based on the evidence presented during this appeal, I cannot determine that the decision of the MNPS Board of Education to deny the amendment application of Intrepid was contrary to the best interests of the students, the LEA, or the community. While Intrepid presented evidence that its students are out-performing the district schools on TN Ready exams in math and English language arts, as well as strong ACT scores from its first senior class, I find the academic concerns noted by the MNPS Board of Education support its decision to deny the amendment application. Specifically, the decreasing TN Ready scores in math are especially concerning. Intrepid's TN Ready math proficiency scores have decreased markedly since the 2016-17 school year. The percentage of Intrepid's students scoring on-track/mastered on TN Ready math exams has decreased from 60.4% in 2016-17 to 46.5% in 2017-18 and 35.4% in 2018-19. TN Ready scores in English language arts have also shown a slight decline from 33.6% in 2016-17 to 27.8% in 2017-18 and 30.9% in 2018-19. TVAAS growth scores are also on a downward trend, with the school decreasing from a TVAAS three (3) in 2017-18 to a TVAAS two (2) in 2018-19.¹⁰ Additionally, MNPS presented evidence that the district is planning to add 600 middle school seats in the Antioch area within the next two (2) to three (3) years, with the land and funding already secured.¹¹

While Intrepid has certainly demonstrated that the school provides a quality option to students in the Antioch community, it is clear that the school is undergoing a period of transition and adjustment with the addition of a new CEO within the last year and implementation of a number of new academic initiatives in an effort to stop the downward trend in test scores. While these instructional and leadership changes sound promising, it is too early to gauge their effectiveness, especially without 2019-20 TN Ready assessment scores. MNPS's concerns regarding adding additional students to a school that is experiencing declining test scores is not, in my opinion, a decision contrary to the best interests of the students, LEA, or community. It appears, based on the evidence presented, that the MNPS Board of Education determined that this was not the appropriate time to consider the addition of more students when the school's data is trending in the wrong direction. I agree that waiting until Intrepid's charter is up for renewal in 2023 will give Intrepid additional time to implement changes and demonstrate that scores are rebounding before the district considers granting additional seats.

While it is clear that Intrepid is attempting to amend its enrollment cap to respond to community demand for the school, MNPS presented evidence that the Board has concerns with the school's declining

¹⁰ Due to the suspension of state testing caused by COVID-19 school closures, there is no academic data to report for the 2019-20 school year.

¹¹ While the plan to add 480 high school seats has been approved by the MNPS Board, it is still waiting on funding from the city.

academic achievement over the past three (3) years, the school has failed to properly manage its enrollment within the current charter agreement, and the district would prefer to consider granting Intrepid additional seats at the renewal stage in 2023, after which more information will be available regarding the school's continued performance and seat capacity in the area. Furthermore, waiting to see if the school is able to turn around its declining TN Ready scores before granting a request to expand enrollment is in keeping with the State Board's Quality Charter Authorizing Standards, outlined in State Board policy 6.111. The Quality Charter Authorizing Standards state that a quality authorizer "[e]ncourages expansion of charter schools that demonstrate academic success, financial viability, organizational health, and capacity for growth." Here, the MNPS Board of Education has valid concerns regarding the school's declining academic data and as such, the Board's decision to deny the enrollment expansion at this time is grounded in quality practice.

For these reasons, based on the information submitted by both parties and the information collected as part of the public hearing, I believe the MNPS Board of Education's decision to deny the amendment application was not contrary to the best interest of the students, LEA, or community. Therefore, I recommend that the State Board uphold the MNPS Board of Education's decision to deny the amendment application submitted by Intrepid.

ALIGNMENT TO QUALITY AUTHORIZING STANDARDS

Detailed information regarding MNPS's amendment petition process was collected and analyzed by State Board staff to determine alignment with the State Board Quality Charter Authorizing Standards as set forth in State Board policy 6.111 and as required by T.C.A. § 49-13-108(f). The State Board Quality Charter Authorizing Standards serve as a crucial guidepost for authorizers to ensure quality and fairness.

MNPS provided interested charter schools with the state-approved amendment application and rubric in alignment with provisions under T.C.A. § 49-13-110 and State Board rule 0520-14-01-.06. The amendment application clearly communicated the performance requirements that a charter school must demonstrate to amend its agreement and how the academic, operational, and financial performance of the school would be evaluated when considering the amendment application.

Furthermore, in a report of its findings, the MNPS Office of Charter Schools grounded its review in the academic, operational, and financial performance of the school. While the state-approved rubric was not submitted as part of the requested documentation, MNPS stated during the public hearing that the rubric was used to evaluate the amendment application. These actions demonstrate alignment to the principle of maintaining high standards for the schools MNPS oversees.

Finally, as discussed above, the decision of the MNPS Board of Education to deny the request for an enrollment expansion on the basis of declining academic data is in keeping with State Board Quality Authorizing Standards. While the MNPS review team may have determined that the school's application met the standard for approval in the academic section of the amendment application rubric, the Board disagreed with this finding due to declining test scores over the past three (3) years. This determination by the MNPS Board of Education is in keeping with quality authorizing standard 2(a)(iii), which states that

a quality authorizer “[e]ncourages expansion of charter schools that demonstrate academic success, financial viability, organizational health, and capacity for growth.”

CONCLUSION

It is evident based on the information collected during this appeal that Intrepid enjoys strong support from families who believe the school presents a quality option for their children. However, given the evidence presented during this appeal, I conclude that the decision by the MNPS Board of Education to deny Intrepid’s amendment application was not contrary to the best interests of the students, LEA, or community and as such, pursuant to State Board rule 0520-14-01-.06, I recommend that the State Board uphold the decision of the MNPS Board of Education.



Dr. Sara Heyburn Morrison, Executive Director
State Board of Education

2/1/21

Date