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**BEFORE THE TENNESSEE STATE BOARD OF EDUCATION**

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**IN RE:** ) **State Board of Education Meeting**

**GATEWAY UNIVERSITY CHARTER SCHOOL** ) **April 2, 2019**

**Charter School Appeal** )

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

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Pursuant to Tennessee Code Annotated (T.C.A.) § 49-13-122, a charter school that has its charter agreement revoked by the chartering authority may appeal the revocation to the State Board of Education (State Board). On February 8, 2019, Gateway University Charter School (Gateway) appealed the revocation of its charter agreement by Shelby County Schools (SCS) Board of Education to the State Board.

Based on the following procedural history, findings of fact, and analysis of the issues, I believe that the decision to revoke Gateway’s charter agreement was not contrary to T.C.A. § 49-13-122.<sup>1</sup> Therefore, I recommend that the State Board affirm the decision of SCS to revoke Gateway’s charter agreement.

**STANDARD OF REVIEW**

Pursuant to T.C.A. § 49-13-122 and State Board policy 6.110, State Board staff conducted a de novo, on the record review of the SCS Board of Education’s decision to revoke, including additional information gathered by State Board staff and the full record presented upon appeal. Additionally, pursuant to State Board policy 6.110, the State Board held a required public hearing in the district where Gateway operates.<sup>2</sup>

In order to overturn the decision of the local board of education, the State Board must find that the local board’s decision to revoke was contrary to T.C.A. § 49-13-122, which states:

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<sup>1</sup> T.C.A. § 49-13-122(b).

<sup>2</sup> T.C.A. § 49-13-122(f).

(b) A public charter school agreement may be revoked at any time or not renewed by the final chartering authority if the chartering authority determines that the school:

- (1) Committed a material violation of any conditions, standards, or procedures set forth in the charter agreement;
- (2) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter agreement; or
- (3) Failed to meet generally accepted standards of fiscal management.

The SCS Board of Education based its revocation of Gateway's charter agreement under paragraph (b)(1) quoted above. Pursuant to this language, it is important for the Board to consider whether or not any of the violations by Gateway are *material* violations of the charter agreement such that they rose to the level of meriting revocation under the statute.

In this case, the State Board has the ability to affirm the SCS decision to revoke or overturn the decision of SCS, in which case the charter school shall continue to operate and SCS shall remain the chartering authority.<sup>3</sup>

#### **PROCEDURAL HISTORY**

1. On August 23, 2016, the SCS Board of Education approved the charter application for Gateway, and executed a charter agreement on August 31, 2016.
2. Gateway began operation at the start of the 2017-18 school year serving 9<sup>th</sup> grade students.
3. In June 2018, a former employee of Gateway contacted the SCS Office of Charter Schools (OCS) to discuss allegations against Gateway. After meeting with the former employee, the OCS began an investigation into the allegations.
4. The results of this investigation culminated in an investigation report dated October 10, 2018. The same day, SCS shared the report with Gateway and granted the school two weeks to provide responses or additional information.
5. On October 29, 2018, Gateway provided SCS with a written response to the investigation report.
6. On December 20, 2018, the OCS notified Gateway via e-mail that they would be recommending that the SCS Board of Education revoke Gateway's charter agreement at its January 29, 2019 board meeting.

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<sup>3</sup> State Board policy 6.110.

7. On January 15, 2019, the SCS Board of Education held an Academic Performance Committee Meeting to discuss the Gateway revocation recommendation.
8. Additionally, the SCS Board of Education held a Charter School Grievance Meeting on January 28, 2019 where Gateway presented information on their behalf.
9. On January 29, 2019, based on the OCS investigation and recommendation, the SCS Board of Education met and voted to revoke Gateway's charter agreement pursuant to T.C.A. § 49-13-122(b)(1).
10. Gateway appealed the revocation of its charter agreement in writing to the State Board on February 8, 2019.
11. On February 8, 2019, the State Board sent a request for additional information to Gateway and SCS.
12. On February 19, 2019, the State Board staff held a public hearing in Memphis. At the public hearing, the Executive Director, sitting as the State Board's designee, heard presentations from Gateway and SCS and took public comment.
13. On March 1, 2019, after reviewing documentation submitted by both SCS and Gateway and conducting the public hearing, the State Board sent a second request for information to Gateway.
14. After reviewing the additional information provided by Gateway, State Board staff sent a third request for information to Gateway on March 19, 2019.

## **FINDINGS OF FACT**

### **I. District Decision to Revoke**

In June 2018, a former Gateway employee approached the OCS to discuss six (6) specific allegations against Gateway.<sup>4</sup> After meeting with the former employee, the OCS undertook an investigation into the allegations to determine whether Gateway was in violation of state laws or the terms of their charter agreement. This investigation included interviews with numerous current and former employees of Gateway, Gateway representatives, and other external parties.<sup>5</sup> The OCS also requested and reviewed various documents as a part of the investigation.<sup>6</sup>

The recommendation of the OCS to revoke Gateway's charter was based on four (4) allegations that, after investigation, the OCS found to be substantiated. The four (4) allegations that the OCS and SCS Board of Education found to be substantiated and evidence cited by the OCS in support are discussed in more detail below:

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<sup>4</sup> See SCS Final Investigation Report, p. 1 for a full listing of allegations made by the former employee.

<sup>5</sup> See SCS Final Investigation Report, p. 2 for a full listing of those individuals interviewed.

<sup>6</sup> See SCS Final Investigation Report, p. 3 for a full listing of all documents collected.

1) Gateway Had a Non-Functioning Governing Board That Did Not Hold Legitimate Meetings During the 2017-18 School Year

According to the OCS, as established through their investigation and final investigation report, allegations that Gateway had a non-functioning board were substantiated based on finding that Gateway's charter agreement and approved charter application state that the school's governing board will be no less than five (5) members and no more than fifteen (15) members. However, the board roster provided by Gateway to OCS listed only four (4) active members at the close of the 2017-18 school year: Anthony Brown, Trevia Chatman, Dr. Sosepriala Dede (the chief executive officer/school leader), and Colby Mitchell.<sup>7</sup> The minutes provided by Gateway suggest that Board Chair Anthony Brown only attended one meeting all year. Further, the minutes indicate that from the December 28, 2017 board meeting until the end of the 2017-18 academic year, board meetings were attended only by three (3) individuals: Trevia Chatman, Dr. Dede, and Colby Mitchell. Current board member, Colby Mitchell, affirmed the validity of the meeting minutes.<sup>8</sup>

2) Grades Were Awarded in Two Classes – Geometry and Academic Seminar – in Which Students Did Not Receive Instruction

Seven students were enrolled in Geometry during the 2017-18 school year across two (2) cohorts, one group of three (3) and one group of four (4), meeting at separate times, according to PowerSchool (the school's student information system) records.<sup>9</sup> The school leader stated that students were temporarily enrolled in the SCS virtual school but withdrew. Records obtained by the OCS from the SCS virtual school showed only four (4) students ever logged into the Geometry course; the other three (3) students never logged in.<sup>10</sup> In an interview with the OCS, the founding math teacher at Gateway stated that there was never a Geometry teacher, that the Geometry students were removed from his Algebra I class after the first month of the school year, and that students were expected to work independently and without instruction.<sup>11</sup> Both former and current staff members supported this description of the Geometry class. The gradebook provided by Gateway was in the form of an Excel spreadsheet and showed that all students received the same grade for every assignment throughout the year, and therefore each received the same final grade.<sup>12</sup>

With regard to Academic Seminar, all current and former employees interviewed by the OCS, with the exception of the school leader, referred to Academic Seminar as some variation of a glorified study hall. Gateway staff stated there was no weekly curriculum or graded assignments.<sup>13</sup> One stated that Academic Seminar was a "pass/fail" class. Another employee stated that they "never did anything during that period," and they never received instruction on how to administer the class during the academic year. The school leader stated that Academic Seminar was a hybrid class, which relied on Habitudes, Career 21,

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<sup>7</sup> SCS Final Investigation Report, p. 2.

<sup>8</sup> SCS Final Investigation Report, p. 3.

<sup>9</sup> SCS Board Meeting PowerPoint.

<sup>10</sup> Ibid.

<sup>11</sup> SCS Final Investigation Report, p. 4.

<sup>12</sup> SCS Final Investigation Report, p. 4; SCS Board Meeting PowerPoint.

<sup>13</sup> SCS Board Meeting PowerPoint.

and Avid to supply curriculum and coursework. He stated that students received something similar to a completion grade.<sup>14</sup>

3) Gateway Relied on Uncertified Teachers, Particularly in English I and World History & Geography

Dr. Dede admitted that Gateway used long-term substitutes in both English I and World History & Geography during the 2017-18 school year.<sup>15</sup> A licensed teacher was never hired to teach World History & Geography. Instead, an unlicensed long-term substitute taught the class for nearly the entire school year.<sup>16</sup> The long-term substitute for English I, who taught from March 2018 to the end of the 2017-18 school year, was also unlicensed.<sup>17</sup> The SCS Human Resources Department confirmed that no waivers were issued for teachers at Gateway to teach outside of their endorsement areas.<sup>18</sup> While licensed teachers were listed as the teachers of record for English I, World History & Geography, and Geometry in PowerSchool, there is no evidence that those teachers ever taught those classes.<sup>19</sup>

4) An Employee Did Not Clear a Background Check, but Was Nevertheless Employed by Gateway

A teacher employed by Gateway from October 22, 2017 to February 2018 was not cleared by SCS Safety & Security for employment. Both Gateway and SCS Safety & Security provided the OCS with a copy of the same letter from Safety & Security, noting that additional information was needed before clearance for this teacher could be provided. No additional information was provided to clear the teacher; however, Gateway employed the teacher beginning in late October 2017 through February 2018.<sup>20</sup>

## II. State Board Review of the Record and Requests for Additional Information

Following the revocation of Gateway's charter agreement and their subsequent appeal to the State Board, State Board staff collected evidence from SCS and Gateway to determine whether or not the decision of the SCS Board of Education was contrary to T.C.A. § 49-13-122. Information collected by State Board staff focused on the four (4) reasons for revocation cited by the SCS Board of Education and outlined above. Additionally, State Board staff held a public hearing in Memphis on February 19, 2019. Both parties presented evidence at the public hearing, and the State Board staff collected public comments. After reviewing the information and arguments provided by both parties in response to the initial request for information and at the public hearing, State Board staff sent a second request for information to Gateway on March 1, 2019. Finally, a third request for information was sent to Gateway on March 19, 2019.

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<sup>14</sup> Ibid.

<sup>15</sup> SCS Final Investigation Report, p. 6.

<sup>16</sup> SCS Board Meeting PowerPoint.

<sup>17</sup> Ibid.

<sup>18</sup> SCS Final Investigation Report, p.6.

<sup>19</sup> SCS Board Meeting PowerPoint.

<sup>20</sup> Ibid.

## ANALYSIS

State law requires the State Board to review the revocation decision of the local board of education and determine whether the decision to revoke Gateway's charter agreement was contrary to T.C.A. § 49-13-122. In making my recommendation to the Board, I have considered the documentation submitted by both Gateway and SCS, the arguments made by both parties at the public hearing, and the public comments received by State Board staff, and conclude as follows:

### I. Material Violations of the Charter Agreement

Based on the information collected as a part of this appeal, I am able to conclude that two (2) of the reasons cited by the SCS Board of Education in support of the revocation of Gateway's charter agreement were material violations of the charter agreement such that the revocation decision was consistent with T.C.A. § 49-13-122(b)(1). The facts and evidence support the conclusion that students were awarded grades in Geometry without receiving consistent, ongoing instruction and that Gateway relied on uncertified teachers in the 2017-18 and 2018-19 school years, in violation of state law and their charter agreement.

#### 1) Students Received Grades in Geometry Class Without Receiving Consistent Instruction<sup>21</sup>

The evidence collected by State Board staff supports SCS's assertion that students at Gateway were awarded grades in Geometry without receiving consistent, ongoing instruction in violation of Gateway's charter agreement. It has been Gateway's assertion that the Geometry class was taught in a collaborative, blended learning model, consistent with its charter agreement. However, the evidence submitted by both parties shows that while Gateway had two certified math teachers on staff, neither was actually assigned to teach the Geometry class either via direct instruction or through blended learning. The Algebra I teacher stated in an interview with SCS that he did not instruct students in Geometry and that the Geometry students were removed from his Algebra I classroom after the first month of the school year. Gateway did not refute this assertion and confirmed in a written response to the State Board that the Algebra I teacher was not the primary source of instruction for these students. Instead, Gateway's assertion was that students worked collaboratively on laptops throughout the school year, taught themselves, and were able to have questions answered by the Algebra I teacher in his free time. Examples of times when students could go to the math teacher for support were during the math block, prior to first period, during lunch, after school, etc. The math teacher stated that students almost never came to him for help. Other former teachers interviewed by SCS confirmed that no one was assigned to teach the Geometry class. The school leader and former teachers state that the school attempted to use the SCS virtual school for Geometry instruction, but it was scrapped after minimal use during the school year.

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<sup>21</sup> SCS also based its revocation on a similar assertion that students received grades in an Academic Seminar class in which no real instruction was provided. However, there is at least some evidence to support that the Academic Seminar class had some structure, a designated class time, and students attended and received grades as evidenced in PowerSchool. Although the class may not have been consistently executed across all teachers, there appears to have been some structure and regular instruction occurring in this class. Therefore, State Board staff is unable to conclude that this amounted to a material violation of the charter agreement.

Logs from the virtual school show that only four (4) of the seven (7) students enrolled in Geometry actually logged into the virtual school system and completed minimal coursework. Additionally, records from PowerSchool (the student information system used for reporting grades to the district and state) show that the only assignments with grades occurred in October 2017 and that all students received the same final grade for the course. When asked if the school had evidence of additional assignments or grades, the school stated that the PowerSchool gradebooks provided by SCS were accurate. However, in a subsequent written response to the State Board, Gateway provided a document that appeared to be an Excel spreadsheet gradebook for the Geometry students. The document shows assignments and grades throughout the four quarters of the 2017-18 school year, not just in October, and reflects that every student received the same grade on every assignment. This document does not align with the assignments included in the PowerSchool documentation previously affirmed by Gateway. Therefore, given the conflicting documentation provided by Gateway regarding the frequency of assignments, State Board staff concluded the grades contained in PowerSchool and affirmed by Gateway are the most accurate depiction of the assignments and grades for the Geometry students during the 2017-18 school year. Gateway contended that the reason for students receiving the same grade on every assignment and same final grade was that students worked collaboratively. However, it was also stated that students were separated into two (2) cohorts. I agree with SCS's conclusion that it is unlikely that collaborative work would be the reason for students in two (2) separate cohorts to earn the exact same grades.

Overall, the evidence supports that there was not consistent, ongoing instruction happening in Geometry, whether through a blended learning model<sup>22</sup> or not, and that students did not receive ongoing structured support from a licensed teacher. The evidence supports that students completed Geometry assignments during only one (1) month of the entire 2017-18 school year, and, at best, received intermittent instruction for the rest of the year via other materials purchased by the school. It appears that these students were left to figure Geometry out on their own, only select students were given instruction via the SCS virtual school for a brief period of time, and each student was assigned the same grade for every assignment regardless of actual work completed or evidence of mastery. This is further bolstered by the fact that students' final grades of 92% were not supported by their end-of-course (EOC) exam scores which showed students were incredibly far behind in their mastery of course content.

## 2) Gateway Utilized Unlicensed Teachers to Provide Instruction in the 2017-18 and 2018-19 School Years

The evidence collected by State Board staff supports SCS's assertion that Gateway relied on unlicensed teachers and teachers teaching outside of their endorsement areas in the 2017-18 school year,

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<sup>22</sup> In an effort to seek additional clarity regarding blended learning, State Board staff undertook research on this issue. In the widely-cited meta-analysis conducted by top researchers at SRI International, blended learning is defined as *learning through a combination of online and face-to-face experiences, where students learn 25% or more but not all of the assessed content over the internet*. They contrast this with purely online learning, which they define as learning that takes place entirely over the internet, where all of the instruction on the content assessed by the outcome measure is delivered through the internet. Means, Barbara, et al. "The Effectiveness of Online and Blended Learning: A Meta-Analysis of the Empirical Literature," *Teachers College Record*, vol. 115, no. 030303 (March 2013): 1-47, accessed March 28, 2019, [https://www.sri.com/sites/default/files/publications/effectiveness\\_of\\_online\\_and\\_blended\\_learning.pdf](https://www.sri.com/sites/default/files/publications/effectiveness_of_online_and_blended_learning.pdf).

and that, despite warnings and an ongoing investigation, these issues continued into the 2018-19 school year in violation of state law and the school's charter agreement. Gateway admitted that, during the 2017-18 school year, they experienced challenges with teacher turnover and recruiting replacement teachers, especially in the English I and World History & Geography classes. Evidence shows the school relied on the services of an unlicensed long-term substitute in English I, and Gateway admits that they did not have a licensed English I teacher from March 2018 through May 2018. Minutes from each monthly board meeting reference at least one (1) teacher vacancy throughout the 2017-18 school year. Gateway states that, on the advice of SCS, in order for students to take the English I EOC, the special education teacher was listed as the teacher of record in PowerSchool even though the substitute was actually teaching the class. Similarly, while two (2) licensed teachers were assigned as the Teacher of Record in PowerSchool for the World History & Geography course, neither actually taught the class. Instead, the World History & Geography classes were taught from September 2017 through May 2018 by an unlicensed long-term substitute. Interviews conducted by SCS with former teachers and employees of Gateway further confirmed that these two (2) courses were taught by unlicensed teachers.

The issue of unlicensed teachers did not go unchecked by SCS. Gateway was notified by SCS in October 2017 of issues with one (1) teacher who was out of compliance with licensure requirements, yet the school persisted in its use of unlicensed long-term substitutes. SCS also confirmed with its Human Resources department that no waivers were issued for Gateway teachers to teach outside their endorsement areas.

A similar licensure check performed by SCS in October 2018 flagged for Gateway that it had four (4) individuals who were out of compliance with licensure requirements in the 2018-19 school year, two (2) of whom had no license at all. A response from Gateway to SCS's October 2018 compliance notification contended that waivers and/or permits were applied for each of these teachers in November 2018. However, based on information provided by Gateway on March 22, 2019, the two (2) unlicensed teachers continued to be employed, one until December 19, 2018, and the other still currently teaching at Gateway.<sup>23</sup> Additionally, a check of TNCompass, the state's educator licensure and evaluation platform, showed that permits and/or waivers were never issued for these four individuals.

Perhaps of greatest concern is the fact that Gateway supplied information that the school employed a teacher with a revoked license during the 2018-19 school year. According to records provided by Gateway, this teacher began work at Gateway on July 25, 2018. This teacher had his/her license revoked by the State Board on September 11, 2018 for physically assaulting a student at another school in Shelby County on two separate occasions in 2016 and was issued a misdemeanor citation by Memphis Police as a result. While this educator had a hold on his/her license at the time of employment in July 2018 and was therefore still eligible for employment, the school should have been aware of the educator's hold

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<sup>23</sup> It should be noted that the unlicensed teacher who is currently employed with Gateway was not included on a list of currently employed teachers or the master schedule supplied by Gateway to State Board staff in response to the second request for information. When State Board staff specifically asked for the employment dates of this educator in the third request for information, this person was listed as currently employed by Gateway. It appears based on these conflicting accounts that Gateway either provided initially misleading information to the State Board with regard to this educator, or that even school leadership is unclear as to who is actually employed at any given time.

as it is clearly noted in TNCompass and the public licensure website. Additionally, the school had an obligation to follow up with the educator and the State Board as to the status of this educator’s license.<sup>24</sup> Based on this evidence, it is undisputed that Gateway employed a teacher with a revoked license from September 11, 2018 until December 19, 2018.

Below is a chart outlining the licensure status of all teachers confirmed by Gateway to have been employed at some point during the 2018-19 school year. Highlighted in yellow are teachers who are either unlicensed or teaching outside of their endorsement area in violation of State Board rules.

Name	2018-19 Dates of Service	License Information	Course(s) Taught
Teacher 1	7.25.18 – 12.19.18	Licensed for Government 6-12	English II
Teacher 2	8.10.18 – 12.19.18	Unlicensed	Lifetime Wellness
Teacher 3	7.25.18 – Current	Finished taking Praxis exams in February 2019 to be certified in Algebra I	Algebra I and Spanish I
Teacher 4	7.25.18 – Current	Unlicensed	US History/Geography and Spanish I
Teacher 5	7.25.18 – 12.19.18	License revoked in September 2018; Certified to teach Chemistry 7-12	Chemistry I and Spanish I
Teacher 6	7.25.18 – 12.19.18	Licensed for Math 7-12	Algebra II, Geometry, and Spanish I
Teacher 7	7.25.18 – 3.18.19	Licensed for Math 7-12 and IT	Coding, Algebra II, and Geometry
Teacher 8	7.31.18 – 12.19.18	Licensed for Biology 7-12	Biology I and Spanish I
Teacher 9	7.30.18 – 12.19.18	Unlicensed	No information about what this individual was teaching
Teacher 10	1.2.19 – Current	Licensed for General Science 7-12, Biology 7-12, Chemistry 7-12, Physics 7-12	Chemistry I and Biology I
Teacher 11	1.2.19 – 2.22.19	Licensed for Phys Ed K-12, Middle Grades 4-8, Elementary K-6	Lifetime Wellness and Physical Education
Teacher 12	7.25.19 – Current	Licensed for IT and Programming	Computer Science Foundations
Teacher 13	7.25.19 – Current	Licensed Sped Comp K-12	Special Education
Teacher 14	7.25.19 – Current	Licensed English 6-12	English I and II
Teacher 15	1.22.19 – Current	Licensed English 7-12, History 7-12, Geography 7-12, Government 7-12	US History/Geography and Creative Writing

<sup>24</sup> Additionally, Gateway admits that beginning in the 2018-19 school year they were responsible for running background checks on educators. Therefore, this educator’s misdemeanor assault citation from 2016 should have showed up on the educator’s background check, and the school should have asked the educator for additional information regarding the citation.

Despite an ongoing investigation by SCS for employing unlicensed teachers and utilizing teachers to teach outside of their endorsement areas in EOC courses during the 2017-18 school year, and despite receiving another warning by SCS in October 2018 for the same issue, it is clear that Gateway continues to be out of compliance with state law and their charter agreement. I am certainly sympathetic to the challenge of recruiting and retaining qualified teachers and understand that it can be especially difficult for a charter school in the first year to navigate these issues. However, it is clear that these challenges were not isolated to the school's first year of operation, and instead of correcting it, this issue has continued and increased in year two (2). Therefore, the totality of evidence leads me to the conclusion that Gateway has materially violated its charter agreement and state law with respect to this finding and that this is a material violation of the charter agreement meriting revocation under T.C.A. § 49-13-122(b)(1).

## **II. Additional Reasons Cited by SCS for Revocation**

SCS cited two (2) additional reasons for the revocation of Gateway's charter: 1) Gateway had a non-functioning governing board that did not hold legitimate meetings during the 2017-18 school year, and 2) Gateway employed a person who did not pass a background check. Based on a review of the evidence submitted by both parties, there does not appear to be sufficient evidence to conclude that these allegations are substantiated and therefore that they amounted to material violations of the charter agreement pursuant to T.C.A. § 49-13-122(b)(1).

With regard to Gateway's governing board, SCS argued that Gateway had fewer board members in the 2017-18 school year than required by their bylaws, and that the board therefore did not maintain quorum to be able to hold legitimate board meetings. Gateway contends that their board composition in the 2017-18 school year did meet the minimum requirement of five (5) board members, and the board did have a quorum at all ten (10) board meetings. An examination of minutes from the ten (10) board meetings during the 2017-18 school year show that between four (4) and six (6) members of the governing board (including Dr. Dede, an ex-officio, non-voting director) attended meetings from September 2017 through November 2017. However, from December 2017 through May 2018, only three (3) members of the governing board, including Dr. Dede, attended board meetings. The evidence also shows that two (2) board members did not attend any board meetings after September 2017 for the entirety of the 2017-18 school year. When asked if Gateway could provide evidence that these two (2) members remained on the board despite their extended absence from almost every board meeting, Gateway provided an attestation from Dr. Dede that these board members never resigned their positions despite their lack of engagement and these board members were not removed (despite a provision in the board bylaws allowing the board to remove members who miss two (2) or more meetings). While the assertion that these members remained engaged in their governance and oversight responsibilities while missing nine (9) months of board meetings seems unlikely, without more evidence, I cannot determine that the board operated with less than five (5) members during the 2017-18 school year.

Furthermore, State Board staff examined board bylaws with regard to the question of whether or not the board had meetings without a true quorum. The bylaws for the Gateway board state that quorum is 51% of the fixed number of directors. Since the board bylaws were unclear regarding whether Dr. Dede is included in this calculation, State Board staff inquired to Gateway as to whether or not the ex-officio

non-voting director was considered in quorum calculations. Gateway responded that Dr. Dede was included in the quorum calculation pursuant to established board practice. Again, while a non-voting director being included in quorum calculations is contrary to common board practice, without additional evidence, I cannot conclude that the board conducted meetings without a true quorum. Therefore, while there is evidence that the school certainly lacked a robust governance structure in its first year, there is inconclusive evidence that the school materially violated its governing board bylaws or its charter agreement in the way it conducted business in the 2017-18 school year. It is clear however, that this board was a far cry from what was promised in the charter agreement as the board was not engaged in the daily life of the school. Had there been strong oversight from an engaged board, many of the issues discussed in this report may have been avoided.

Finally, with regard to the assertion that Gateway employed a teacher who did not pass a background check, Gateway confirmed in a written response to the State Board that it was the obligation of SCS to run background checks for charter schools in the 2017-18 school year. SCS stated that they notified Gateway that this teacher had an indication on his/her background check and that Gateway needed to provide additional information to SCS in order for this teacher to receive a satisfactory background check. According to SCS, this additional information was never provided. Gateway contends they did collect additional information on this teacher and had the right to make their own determination that he/she was eligible for hire. However, no evidence was provided by Gateway to back up their assertion that they did in fact collect additional information regarding this educator's background. This educator was then employed by Gateway from October 2017 to February 2018. There is no evidence that this educator received a satisfactory background check from SCS and was therefore cleared to be hired. However, the school's assertion that it did collect additional information on this educator, while unsupported by documentation, is at least some evidence that the school may have been confused regarding which party (SCS or the school) had the authority to make the final call regarding hiring. Absent clear evidence on this issue, I cannot determine that the actions of Gateway amounted to a material violation of the charter agreement.

## **CONCLUSION**

While it is evident that Gateway experienced its share of challenges during its first two (2) years of operation, the basis of charter school authorization is autonomy in exchange for accountability. Holding schools to that accountability bar is a critical duty of authorizers and maintaining high standards is one of the State Board's three (3) Quality Charter Authorizing Principles.<sup>25</sup> Schools that act in violation of their charter agreement in a material way which violate the public trust, especially given the amount of public funds entrusted to a charter school, must be closed. While it is clear that SCS was engaged on some of the issues set forth in this report (such as monitoring teacher licensure), this situation has also brought to light the importance of working with schools, particularly new operators, in their first few years to ensure that they are knowledgeable about state laws and regulations, are upholding the obligations of their charter agreement and, when possible, helping them troubleshoot issues before recommending revocation. However, based on my review of the evidence as summarized above, I agree with Shelby County that they

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<sup>25</sup> State Board Policy 6.111 -- Quality Authorizing Standards, pg. 1.

did have grounds under T.C.A. § 49-13-122(b)(1) to revoke Gateway's charter agreement. Therefore, I recommend that the State Board affirm the SCS Board of Education's revocation decision.



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

3/29/2019

Date