

CASE STUDY OF A REVOCATION APPEAL

Charter Commission Meeting

December 16, 2020



TENNESSEE
PUBLIC CHARTER SCHOOL COMMISSION

CASE STUDY OVERVIEW

- Gateway University Charter School was located in Memphis.
- School first opened in 2017-18 school year serving 9th grade students.
- Shelby County voted to revoke the charter agreement on January 28, 2019, and the school was serving 9th and 10th grades.
- Revocation appeal heard by the State Board on April 2, 2019.
- State Board upheld the decision of Shelby County Schools to revoke the charter agreement under T.C.A. § 49-13-122.

AGENDA

- Standard of Review in Revocation Appeals
- Overview of the Appeal
- Presentation of Recommendation and Facts in the Appeal
- Discussion and Questions from Commissioners

STATUTORY CHARGE

REVOCATION APPEALS

STATUTORY CHARGE

- In a revocation appeal, the State Board (and the Commission) has the following standard of review: Was the authorizer's decision to revoke the charter agreement contrary to T.C.A. § 49-13-122?
- T.C.A. § 49-13-122 states that a charter school agreement may be revoked at any time by the 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.
- In the case of the charter agreement for Gateway, Shelby County Schools (SCS) cited the first reason, "committed a material violation of the charter agreement", in the revocation decision.

APPEAL OVERVIEW

GATEWAY UNIVERSITY

APPEAL OVERVIEW

- August 2016 - Shelby County approved charter agreement for Gateway University Charter School.
- 2017-2018 school year - Gateway opened serving 9th grade students.
- June 2018 - Shelby County received a complaint from a former employee of Gateway and initiated an investigation.
- October 2018 - Shelby County completed investigation report and provided it to Gateway for a response.
- October 2018 - Gateway provided a written response to Shelby County.
- December 2018 - Shelby County staff notified Gateway that they would be recommending revocation of the charter agreement at the January 29, 2019 board meeting.
- January 28, 2019 - Shelby County Board held a public hearing with Gateway.
- January 29, 2019 - Shelby County Board voted to revoke the charter agreement of Gateway.

APPEAL OVERVIEW

- Shelby County revoked Gateway's charter agreement based on the following allegations which it deemed material violations of the charter agreement:
 - Gateway had a non-functioning governing board that did not hold legitimate meetings during the 2017-18 school year
 - Grades were awarded in two classes - Geometry and Academic Seminar - in which students did not receive instruction
 - Gateway utilized unlicensed teachers to provide instruction in the 2017-18 and 2018-19 school years
 - An employee did not clear a background check, but was nevertheless employed by Gateway

APPEAL OVERVIEW

- Gateway submitted a revocation appeal to the State Board on February 8, 2019.
- State Board staff initiated appeal process:
 - Requested information from Gateway and Shelby County regarding the revocation decision.
 - Scheduled public hearing in Memphis with Gateway and Shelby County.
 - Notified State Board members of hearing time, date, and location for their information only.
 - Executive director and staff held public hearing and collected public comment.
 - Requested additional information from Shelby County and Gateway on two additional occasions.
 - Scheduled special-called board meeting to hear revocation appeal.

APPEAL OVERVIEW

- State Board staff continued appeal process:
 - Analyzed all information collected from all parties and public comment against the standard of review in a revocation appeal.
 - Drafted executive director's report and compiled all documentation received for State Board members.
- State Board staff provided State Board members the following information approximately a week before the special-called meeting:
 - Executive Director's Findings and Recommendation
 - All materials in the record of the appeal

DE NOVO REVIEW & REQUESTED INFORMATION

GATEWAY UNIVERSITY

INFORMATION REQUESTED

Summary of Information requested by State Board staff in the three requests:

- Charter agreement
- Copy of LEA record in revocation
- LEA investigation summaries
- Any intervention correspondence from LEA
- Evidence supporting/refuting LEA's reasons for revocation
- Annual reports/site visit reports
- Annual financial audits
- Names/service of Gateway's governing board members
- Information about teachers of record listed for students
- Copy of Gateway's bylaws
- Information about background check responsibilities
- Information about "blended learning" model used and evidence of online platforms used by Gateway
- Grades and assignments for Geometry course
- All current teachers/courses they taught/license numbers
- Master schedule of Gateway
- Dates of employment for teachers

ALLEGATION # 1

- Gateway had a non-functioning governing board that did not hold legitimate meetings during the 2017-18 school year.
- Facts:
 - Gateway's bylaws required a minimum of five board members and named the executive director as the ex-officio/non-voting member. Quorum is 51% of the fixed number of directors.
 - Gateway started the 2017-18 school year with 8 members (including the executive director). By December 2017, Gateway stated they had 5 members (including the executive director).
 - Board meeting minutes from December 2017 to May 2018 showed only three members (including the executive director) participated in meetings.
 - Gateway provided an attestation that two of the board members remained on the board from December 2017 to May 2018 even though they did not participate in meetings.
- Analysis:
 - Due to inconclusive evidence that the school operated with fewer than five board members (as required in their charter agreement), the State Board staff did not substantiate this allegation.
 - However, the governing board of the charter school was clearly not as robust and engaged as what was proposed in the charter application.

ALLEGATION #2

- Grades were awarded in two classes – Geometry and Academic Seminar – in which students did not receive instruction
- Facts:
 - There was no consistent geometry instruction occurring during the school year, and students minimally used the virtual geometry option.
 - Students were primarily left to figure out geometry on their own with little support from a teacher.
 - All students received the same grade—92%—at the end of the term but performed very poorly on the end of course exam.
 - 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.
- Analysis:
 - The evidence supports that there was not consistent, ongoing instruction happening in Geometry, whether through a blended learning model or not, and that students did not receive ongoing structured support from a licensed teacher. Students were assigned grades regardless of the mastery of standards.
 - The allegation regarding the geometry class was substantiated and determined to be a material violation of the charter agreement.
 - The allegation regarding the Academic Seminar class was not substantiated.

ALLEGATION #3

- Gateway utilized unlicensed teachers to provide instruction in the 2017-18 and 2018-19 school years
- Facts:
 - Gateway struggled to retain teachers and recruit replacement teachers in the 2017-18 school year, and minutes from the governing board meetings referenced these vacancies.
 - In the 2017-18 school year, English I and World History & Geography were taught by unlicensed teachers.
 - In the 2018-19 school year, Gateway continued to struggle with retaining licensed teachers. In October 2018, the school was notified by Shelby County that four individuals were out of compliance regarding their license/endorsement.
- Analysis:
 - Gateway had unlicensed teachers teaching classes in both the 2017-18 school year and the 2018-19 school year.
 - Gateway was notified multiple times by Shelby County that they were out of compliance regarding licensed teachers, but the issue continued.
 - State Board staff determined this allegation was substantiated and was a material violation of the charter agreement.

ALLEGATION #4

- An employee did not clear a background check, but was nevertheless employed by Gateway
- Facts:
 - In the 2017-18 school year, it was the obligation of Shelby County to run background checks for charter schools.
 - Shelby County requested additional information regarding an individual that Gateway submitted for a background check, but Shelby County states the information was never received.
 - Gateway contends that the school did collect additional information from the individual and determined that he/she was eligible for hire since Gateway was the employer.
- Analysis:
 - There was conflicting information from Shelby County and Gateway about the collection of additional information and the results of the background check.
 - State Board staff was unable to determine it was a material violation of the charter agreement.

RECOMMENDATION

GATEWAY UNIVERSITY CHARTER SCHOOL REVOCATION APPEAL

RECOMMENDATION

- Based on the record, the State Board staff determined there were two material violations of the charter agreement:
 - Grades were awarded in Geometry when students did not receive instruction
 - Gateway utilized unlicensed teachers to provide instruction in the 2017-18 and 2018-19 school years
- Therefore, it was the recommendation of the Executive Director of the State Board to uphold the decision of Shelby County to revoke the charter agreement of Gateway University Charter School under T.C.A. § 49-13-122(b)(1).
- After a robust discussion of the recommendation, the State Board upheld the decision of Shelby County to revoke the charter agreement of Gateway.

QUESTIONS & DISCUSSION

SAMPLE REVOCATION APPEAL

SAMPLE REVOCATION APPEAL

- Based on the information reviewed in the sample appeal, what surprised you the most?
- In the case of revocation appeals, the standard of review is “was the authorizer’s decision to revoke the charter agreement contrary to T.C.A. § 49-13-122?” How would you have applied this standard of review in this case?
- Based on your experience and what you have learned today, is there any additional information you would want to see requested and/or presented in record?
- As an authorizer, what oversight and monitoring would you encourage staff to do to identify these types of issues early?