

**IN THE ILLINOIS STATE
CHARTER SCHOOL COMMISSION**

Betty Shabazz International Charter School)	
)	
v.)	No. SCSC 16-002
)	
Chicago Public Schools District 299)	

FINAL DECISION OF THE COMMISSION

On March 1, 2016, the Illinois State Charter School Commission (the “Commission”) voted to reverse the Board of Education for the Chicago Public Schools District No. 299 (“CPS” or “CPS Board”) decision to revoke the charter previously been granted to Betty Shabazz International Charter School (“BSI”) to establish the campus of Betty Shabazz International Charter School – Barbara A. Sizemore Academy (BSI-BASA or “BASA Campus”). The Commission concludes that the District did not comply with the parties’ charter agreement or the Illinois Charter Schools Law when it revoked the BSI Charter with regard to the BASA Campus and that it would not be in the best interests of the current students enrolled to close the school at the end of the academic year. 105 ILCS 5/27A-8. Therefore, the Commission reverses the CPS decision to revoke the BSI Charter, BASA Campus.

I. Jurisdiction

The CPS Board voted to revoke the charter belonging to BSI for the BASA Campus on November 18, 2015. On December 18, 2015, in compliance with the statutory deadline, BSI submitted an appeal to the Commission. The submission included the necessary documentation.

The Commission exercises jurisdiction in this matter pursuant to the Illinois Charter Schools Law, 105 ILCS 5/27A-9. CPS argued that the Commission should not exercise discretion to hear BSI’s appeal because it voted to revoke a charter campus rather than the charter of the entire Betty Shabazz International Charter School. However, the Commission’s exercise of jurisdiction over the appeal submitted by BSI-BASA is proper. The Illinois Charter Schools Law explicitly authorizes the Commission to review revocation decisions rendered by a local school district. *See* 105 ILCS 5/27A-9(e) (“Notice of a local school board’s decision to deny, revoke or not to renew a charter shall be provided to the Commission and the State Board. The Commission may reverse a local board’s decision . . .”); 23 Ill. Admin. Code 650.100(a) (“An applicant for a charter or a charter holder may appeal to the Commission a local school board report that denies, revokes or refuses to renew a charter.”) The facts in the record clearly demonstrate that the action CPS took on November 18, 2015 with regard to BSI’s BASA Campus was a revocation decision.

CPS argues that the action it took with regard to BSI-BASA should not be regarded as a charter revocation decision and that the Illinois Charter Schools Law does not authorize the Commission to hear the appeal of decision to close a single campus belonging to a multi-campus charter. CPS presented a brief on appeal asserting that the CPS Board of Education did not actually vote to

revoke the BSI Charter, but instead sought only to amend the Charter School Agreement with BSI to close the BASA Campus and decrease enrollment for the charter school. (1/19/16 CPS Br. at 2.) The facts in the public record and record on appeal, however, belie that assertion.

First, the precise language of the Board Report approved by the CPS Board on November 18, 2015 makes clear that CPS acted to revoke the BSI Charter: “This November 2015 amendment is necessary to (a) *revoke the Betty Shabazz International Charter School – Barbara A. Sizemore Academy Campus* at the end of the 2015-2016 school year for the reasons set forth below. . .” (CPS Board Report 15-1118-EX4)(emphasis supplied). The Report also notes that “[i]n early November 2015, the CEO provided written notice to Betty Shabazz International Charter School that he intended to recommend *the revocation of the Betty Shabazz International Charter School – Barbara A. Sizemore Academy Campus* at the end of the 2015-2016 school year. . .” To further support its revocation decision, CPS cites to Section 27A-9(c)(2) of the Charter Schools Law which sets forth the requirements for a revocation and states that “a charter *may be revoked* if it fails to ‘meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter.’” CPS then details the steps it followed to reach its conclusion that BSI-BASA “failed to implement its remediation plan,” and therefore, the CEO had to recommend that BSI-BASA “*be revoked* at the end of the 2015-2016 school year.” *Id.* Each step CPS took tracks the revocation provision set forth in Section 27A-9 of the Charter Schools Law.

Second, at the November 18, 2015 Board Meeting, CPS publicly stated that it was “recommending the *revocation*” of BSI-BASA due to its failure to implement the remediation plan it had been given in December 2014. (11/18/15 Board Meeting Presentation, CPS Charter School Closure Recommendations at 3, 6.)

Third, if, as CPS argues in its brief, the parties actually intended to effectuate “an amendment of the charter agreement to close a campus,” (1/19/15 CPS Br. at 3) and not a revocation, CPS would have been required to obtain BSI’s consent. Any amendment of the Charter School Agreement between BSI and CPS requires written consent of both BSI and CPS. (Charter Agmt. ¶ 22.) The record shows no evidence that CPS sought to obtain BSI’s consent. In addition, BSI objected to the closure of the BASA Campus and did not consent to the changes CPS approved in its November 18, 2015 Board Report.

Finally, the actions CPS took in relation to its BSI-BASA decision are consistent with a charter revocation. Paragraph 13 of the parties’ Charter Agreement gives CPS the right to revoke the Agreement “and the charter of the Charter School, in whole or as to any Attendance Center or campus, if applicable, in accordance with Section 27A-9 of the Charter Schools Law, if the Board clearly demonstrates that the Charter School, or any Attendance Center or campus, did any of the following, or otherwise failed to comply with the requirements of the Charter Schools Law . . .” (Charter Agmt. ¶ 13) According to record submitted on appeal, CPS took steps to revoke the charter of BSI as it relates to BASA Campus. As examples, CPS: (1) informed the BASA campus that it was “subject to revocation,” because it was failing to meet or make reasonable progress on achievement of per pupil performance standards in December 2014; (2) required the BASA Campus to develop and implement a remediation plan; (3) cited one of the reasons listed at 105 ILCS 5/27A-9(c) as the basis for closing the school; and (4) provided BSI

written notice of its right to appeal the revocation decision. Each of these actions suggest that CPS wanted to comply with Section 27A-9 of the Charter Law and sought to exercise its power to revoke pursuant to Paragraph 13 of the Charter Agreement. It was not merely seeking to “modify the Agreement and close the BASA campus” as CPS now contends. (1/19/15 CPS Br. at 4.)

Although the parties’ Charter Agreement gives CPS the right to revoke the BSI Charter in whole or as to a specific campus, like BASA, the language of Paragraph 13 also makes clear that even a campus revocation must be done “in accordance Section 27A-9” of the Charter Law. That provision and the implementing rules give charter schools that have been revoked due process. Due process includes the right to appeal revocation decisions issued by a local school board to the Commission. Accordingly, the BSI appeal is properly before the Commission under 105 ILCS 5/27A-9(e) and 23 Ill Admin Code 650.100(a).

II. Procedural Background

BSI filed its appeal seeking reversal of the revocation decision CPS rendered on November 18, 2015. Upon receipt of BSI’s appeal submission, Commission staff began its process of review and analysis of the CPS Board’s revocation decision and BSI’s appeal. After receiving briefs on the matter and considering the arguments made by the parties at a public meeting concerning the Commission’s authority to hear BSI’s appeal, the Commission voted to accept jurisdiction over the appeal on February 9, 2016.

The Commission retained a team of experts to analyze the record on appeal. Over the course of the appeal process, the Commission staff, counsel, and team of evaluators engaged in a number of activities and conducted a review of the following: (1) memoranda from the parties regarding their arguments on the CPS Board’s revocation decision and the Commission’s jurisdiction; (2) BSI’s most recent charter renewal proposal; (3) BSI’s charter renewal agreement and appended accountability plan; (4) a Statement of the School’s Capacity to Become an LEA, which included five-year budget projections; (5) BSI-BASA’s Remediation Plan; (6) evidence submitted regarding BSI’s implementation of the Remediation Plan; (7) aggregate data regarding student performance at schools in assigned school zones; (8) FY 14 financial score card data; (9) academic findings report data; (10) BSI progress and performance reports; and (11) additional submissions from BSI and CPS per request of Commission staff, which included various correspondence between the parties during the revocation process.

In addition to the review of the above, Commission staff and evaluators: (1) conducted a joint interview of the parties to question them about BSI-BASA’s academic program, its operations, financial performance, and management of the school, as well as the District’s revocation criteria, process, policies and ultimate revocation decision; (2) conducted a school site visit, which included a tour of the school facility, classroom observations, and a meeting with parents (the site visit was observed by a member of the CPS staff); (3) held conference calls with the parties regarding the appeal process; and (4) compiled and analyzed relevant academic performance and other data. Additionally, counsel reviewed and analyzed the appeal record, memoranda and other submissions.

On February 22, 2016, the parties participated in a public hearing to receive comment on BSI's appeal. Commissioner Troy Ratliff, Commissioner William Farmer, and Interim Executive Director Hosanna Mahaley Jones and Deputy Director Shenita Johnson represented the Commission at the hearing. At the public hearing, the Commissioners heard comments from individuals who support both parties and from over fifty (50) speakers who expressed support for a decision to keep BSI-BASA open.

Having conducted a comprehensive review of all the materials submitted by the parties and the analyses performed by experts and having concluded due diligence, Commission staff prepared its recommendation to the Commission. On February 29, 2016, Commission staff met with the parties to this appeal and informed them that Commission staff would recommend that the appeal be granted. On March 1, 2016, the Commissioners met and voted on Commission staff's recommendation regarding BSI's appeal. Seven (7) Commissioners were serving on the Commission as of March 1. Six (6) Commissioners participated in the discussion of the appeal and vote at a duly noticed public meeting and those same six (6) Commissioners voted to adopt the staff recommendation and to grant the appeal.

III. Findings of Fact

A. CPS Revocation Process and Decision

1. In July 2013, CPS renewed its Charter Agreement with BSI. The Charter Renewal Agreement ("Charter Agreement") included an Accountability Plan that was expressly incorporated into the Agreement and stated that the CPS School Quality Rating Policy (SQRP) "shall be used to determine if a school is meeting or making reasonable progress . . ." and that "this determination shall be used in decisions concerning the revocation or renewal of a school's charter or contract." (Charter Agmt, Accountability Plan, at ii.)
2. The Charter Agreement enables CPS to modify the Accountability Plan that it uses to evaluate BSI's performance, but requires that CPS provide advance written notice to the charter school before it can be applied. The provision states that "[t]he Charter School shall be held accountable by the Board in accordance with the Accountability Plans in Exhibit C . . . the parties agree that the Accountability Plans attached as Exhibit C hereto is subject to revision and modification by the Board effective on July 1 of each year of the Agreement upon written notice from the Board no later than June 30 of each year." (Charter Agmt. ¶ 9.)
3. The Accountability Plans incorporated into the BSI Charter Agreement at Exhibit C include one for the 2013-2014 school year and another one "starting in the 2014-2015 school year."
4. The Charter Accountability Plan – Starting in 2014-2015 School Year states that the Charter School, BSI, "shall be evaluated annually . . . to ensure, at a minimum, alignment with the district's School Quality Rating Policy ("SQRP") for both elementary and high schools adopted by the Board on August 28, 2013 (13-0828-PO5), as may be amended from time to time . . ." (Charter Agmt. Accountability Plan, at i.)
5. The August 28, 2013 SQRP or 13-0828-PO5 states that "CPS charter schools are subject to the performance standards set out in this policy by and through the accountability

- provisions in their charter contract with the Board and shall annually receive a School Quality Rating and Accountability Status.”
6. The SQRP, 13-0828-PO5, states that a “school with a School Quality Rating of Tier 1, Tier 2, or Tier 3 hereunder shall receive Good Standing status” except when the school has been on Probation or Remediation status for 2 or more consecutive years and in other limited circumstances.
 7. CPS adopted another version of the School Quality Rating Policy on August 27, 2014 and another on November 19, 2014. Under Policy 14-0827-PO2 and later adopted Policy 14-1119-PO1, CPS amended the SQRP language to change the Tier designations to Levels and to modify the rating scale so that a school was required to obtain a rating of 1+, 1 or 2+ in order to secure “Good Standing” status.
 8. CPS did not provide BSI the required written notice before June 30, 2014 regarding its plan to adopt Policy 14-0827-PO2 or Policy 14-1119-PO1 and to apply the pupil performance standards set forth in those policies to BSI-BASA during the 2014-2015 school year.
 9. For the 2014-2015 school year, the operative School Quality Rating Policy for the Accountability Plan incorporated into the BSI Charter Agreement is Policy 13-0828-PO5, and not Policy 14-0827-PO2 or Policy 14-1119-PO1.
 10. On December 3, 2014 letter, CPS notified BSI that the school had received an SQRP Rating of Level 3, the lowest possible rating, and that it was being placed on the Academic Warning List, was required to submit a Remediation Plan and was subject to revocation in the future.
 11. The December 3, 2014 specifically informed BSI that “to be removed from the Academic Warning List and to exit the Revocation Process, your school must not receive a “Level 3” designation as measured on the SQRP, based on SY2014-15 data, as evaluated in SY2015-16.”
 12. In the same December 3, 2014 communication to BSI, CPS indicated that “[i]f your school has met the exit criteria, no further action is needed...”
 13. The Remediation Plan that BSI submitted for BSI-BASA consists of a set of academic performance goals, a set of culture and climate goals and list of four strategic priorities. In the Plan, BSI set targets for BSI-BASA academic performance goals to be reached in the 2015 and the 2016 school year.
 14. On February 9, 2015, a CPS representative sent BSI-BASA an email to confirm receipt of the required Remediation Plan. The Remediation Plan contained a number of goals for the BASA Campus to achieve over the course of multiple years. The email from the CPS representative stated that the Remediation Plan submitted by BSI was “complete” and reminded BSI that the Plan included “the end goal of not being rated a level 3.”
 15. The Remediation Plan submitted by BSI-BASA and approved by CPS specifically states that “[t]o exit the Warning List and thus Revocation or Closure, the campus must not be rated a Level 3 on the School Quality Rating Policy as defined in the charter school’s agreement.”
 16. In a press release dated *October 26, 2015*, CPS announced that the CEO would be proposing adoption of a new Charter School Quality Policy (CSQP). According to the press release, the CSQP would provide criteria for charter school revocation and non-renewal decisions.

17. The October 26, 2015 press release also stated that: “in conjunction with this [the CSQP] policy, the District will recommend immediately placing 10 charter schools on an Academic Warning List, which could result in the closure of these schools if performance does not significantly improve. Four of these schools are receiving additional scrutiny and could be recommended for revocation or non-renewal.”
18. The following day, CPS released the SQRP levels for all of its schools and BSI-BASA learned that it had achieved a Level 2 SQRP rating for the 2015-2016 school year.
19. On October 28, 2015, the CPS Board approved the CSQP proposed by the CEO.
20. The CSQP indicates that a charter school or campus is placed on the Academic Warning List, if the charter school or campus has (1) a SQRP rating of Level 3; or (2) a two-year SQRP point value average of 2.5 or lower; or (3) a SQRP rating of Level 2 in three consecutive years.
21. CPS contacted BSI on October 29, 2015 at approximately 1:30 p.m. and requested evidence of BSI-BASA’s implementation of the Remediation Plan by October 30, 2015 at 9:00 a.m. BSI complied and submitted evidence by the CPS deadline.
22. One week later, on November 4, 2015, CPS notified BSI that BSI-BASA failed to implement the Remediation Plan and that the CPS CEO would recommend that BSI-BASA be revoked at the November 18, 2015 board meeting.
23. In a press release dated November 5, 2015, CPS announced that BSI-BASA was “currently on the Academic Warning List and ... [had] failed to implement required remediation plans.”
24. On November 18, 2015, CPS officials gave a public presentation to the CPS Board during which it explained the basis for its recommendation that BSI-BASA be revoked. In the presentation, CPS stated that the revocation recommendation was “consistent with the Charter School Quality Policy.”
25. In its “Final Recommendation” listed on the BSI-BASA Remediation Plan Scorecard, CPS concludes that “[r]eview of the remediation plan submitted by [BSI-BASA] reveals that the school failed to reach 5 out of the 10 identified goals; including Attainment and Growth goals. In addition, the school provided incomplete or sample documentation to evidence comprehensive plan implementation. This, in combination with the fact that the school earned a SY15-16 SQRP rating of Level 2 and a 2 year SQRP average of 2.3, leads to the conclusion that the charter school has failed to implement the plan of remediation.”
26. The CPS Board approved Board Report 15-1118-EX4 which took action to revoke BSI-BASA on November 18, 2015. The Board Report was duly certified on November 20, 2015 by the CPS Board Secretary.
27. On November 25, 2015, CPS sent the Commission the Board Report, notice to BSI of the BASA Campus revocation and closing and other materials documenting its decision and vote to revoke the BSI-BASA Campus at the end of the 2015-2016 school year.

B. CPS Response to BSI Appeal

CPS contends that it decided to close the BASA Campus of the BSI Charter School because it “failed to educate its students.” More specifically, the CPS Board concluded that after eight months of implementing its Remediation Plan, the BASA Campus “failed to implement the

[Remediation] Plan for the 2014-2015 school year” and that it was therefore necessary to close the school.

1. CPS asserts that at the start of the 2015-2016 school year, the Office of Innovation and Incubation, in conjunction with the Office of Accountability, decided to review BSI-BASA’s performance under the Remediation Plan that was initiated in February of the 2014-2015 school year.
2. After giving BSI less than a day to provide evidence of how it was implementing the Remediation Plan, CPS reviewed the evidence BSI submitted.
3. CPS found that the BASA Campus failed to meet five out of the ten academic performance goals that were established in the Remediation Plan for SY 2015.
4. CPS determined that the BASA Campus did not provide any persuasive evidence that the Strategic Priorities identified in the Remediation Plan were being implemented.
5. CPS also contends that the Remediation Plan required more than achievement of a Level 2 SQRP Rating to exit the revocation process and avoid closure. Instead, CPS asserts that it evaluated BSI-BASA’s performance under the Remediation Plan and “properly concluded that BASA failed to implement critical components.”
6. CPS also argues that BSI does not have the capacity to operate the BASA Campus as a separate Commission authorized charter school and that there are other public school options available to better serve students currently enrolled at BSI-BASA.
7. As part of its recommendation to the CPS Board, CPS staff indicated that it developed a cross-departmental School Transition Team that would work with families impacted by the revocation and closure of BSI-BASA. The Transition Team would work to develop a “customized transition team plan” for each student and (1) coordinate with potential receiving schools and community groups to identify higher performing school options; (2) provide academic and social-emotional supports to impacted students during the 2015-2016 and 2016-2017 school year; (3) facilitate the transition of student records; and (4) if necessary, secure supplemental transportation assistance for students.
8. On March 1, 2016, the day of the Commission vote on BSI’s appeal, CPS representatives publicly announced that staff worked to make arrangements with other CPS schools and find additional seats that it could guarantee to BSI-BASA students. On February 29, 2016, just after 4 p.m., CPS sent a communication to the Commission and BSI with the same announcement. CPS stated that for BSI-BASA students whose assigned school was not better performing, it would guarantee them a seat in one of three better performing public schools. CPS also promised to provide students who needed it transportation assistance for at least one year.

IV. Analysis

A. Standard of Review

The Commission “may reverse a local school board’s decision to deny a proposal when the Commission finds that the charter school or charter school proposal (i) is in compliance with this article [the Charter Schools Law] and (ii) is in the best interests of the students it [the charter school] is designed to serve.” *See* 105 ILCS 5/27A-9(e). *See also* 23 Ill. Admin. Code 650.100. To determine whether a proposal satisfies this standard, the Commission conducts a *de novo*

review of the proposal and the school district's response. 23 Ill. Admin. Code 650.110 (d)(1). *See also Bd. of Educ. of Rich Twp. High Sch. Dist. No. 227 v. Ill. State Bd. of Educ.*, 965 N.E.2d 13 (Ill. App. Ct. 1st Dist. 2011).

Additionally, as required under the Law, the Commission shall give preference to the establishment of charter schools that: "(1) demonstrate a high level of local pupil, parental, community, business, and school personnel support; (2) set rigorous levels of expected pupil achievement and demonstrate feasible plans for attaining those levels of achievement; and (3) are designed to enroll and serve a substantial proportion of at-risk children; provided that nothing in the Charter Schools Law shall be construed as intended to limit the establishment of charter schools to those that serve a substantial portion of at-risk children or to in any manner restrict, limit, or discourage the establishment of charter schools that enroll and serve other pupil populations under a nonexclusive, nondiscriminatory admissions policy." 105 ILCS 5/27A-8(a).

B. Legal Compliance

For the review of a revocation decision, the Commission conducts an analysis of the local school district authorizer's and the charter school's procedural and substantive legal compliance. The Illinois Charter Schools Law and the Charter Agreement delineate conditions, requirements, policies, and procedures that an authorizer must follow when it makes a revocation decision and that a charter school must respect in order to mount a proper defense.

Procedural Compliance. Although BSI-BASA met the requirements for procedural compliance with the Charter Law and the parties' Charter Agreement, the District did not. On review of the District's revocation decision, the Commission considers whether BSI-BASA performed all of its obligations under the terms of the charter agreement and the Charter Schools Law. Similarly, the Commission reviews whether CPS complied with the requirements set forth in the Charter Law and the parties' agreement regarding the revocation process. Here, application of the standards CPS adopted as part of new CSQP approved in October 2015 to justify the revocation of BSI-BASA's charter was improper.

In the November 18, 2015 Board Report and public presentations, CPS claims that BSI-BASA's charter was revoked pursuant to Section 9(c) of the Illinois Charter Schools Law, which in part states that a "charter may be revoked or not renewed if the local school board or the Commission, as the chartering entity, clearly demonstrates that the charter school . . . [f]ailed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter. *See* 105 ILCS 5/27A-9(c). BSI-BASA's pupil performance standards are set forth in the Accountability Plan which is expressly incorporated as Exhibit C to the Charter Agreement and which identifies the specific school quality policy that applies in a given school year.

Under the charter agreement, the District was required to notify BSI-BASA on or before June 30, 2015, if it was planning to apply performance standards from a policy other than School Quality Rating Policy 13-0828-PO5 for the 2015-2016 school year.¹ BSI-BASA did not receive notice

¹ CPS apparently applied the standards set forth in either Policy 14-0827-PO2 or Policy 14-1119-PO1 in December 2014 when it placed BSI-BASA on the Academic Warning List and required it to submit a Remediation Plan for the SY 2014-2015. However, there is no evidence in the record that CPS provided

of CPS's intent to apply the CSQP to BSI-BASA until late October 2015 when the new policy was approved. Therefore, CPS cannot rely on the higher standards for performance CPS established in the October 2015 CSQP to make BSI-BASA eligible for revocation in the 2015-2016 school year. However, the record suggests that CPS did rely on the new standards in the CSQP to justify its decision to revoke just months after placing the BASA Campus on a Remediation Plan. In its "Final Recommendation" CPS found that in addition to its unsuccessful implementation of the Plan, BSI-BASA "earned a SY15-16 SQRP rating of Level 2 and a 2 year SQRP average of 2.3." A 2 year SQRP average of 2.3 allows for revocation under the CSQP, but not earlier school quality policies. Moreover, when the BSI-BASA recommendation was presented publicly, CPS expressly stated that the basis for the decision was "Consistent with Charter School Quality Policy."

As a matter of law, the CPS Board's application of new academic performance standards from the October 2015 CSQP to justify revocation of the BSI charter for the BASA Campus contradicts Paragraph 9 and 12 of the Charter Agreement and Section 5/27A-9 of the Charter Schools Law.

Substantive Compliance. BSI-BASA meets the requirements for substantive compliance, but again, the CPS cannot. Even if, as CPS now argues, the CPS Board did not rely upon the CSQP to justify its revocation decision, the evidence in the record does not support CPS's conclusion that BSI-BASA "failed to implement its remediation plan" or that it "failed to meet or make reasonable progress toward achievement of . . . pupil performance standards identified in the charter." To the contrary, BSI-BASA met the standards for pupil performance that CPS established as part of the Remediation Plan.

In December 2014, CPS placed BSI-BASA on the Academic Warning List and subjected it to revocation proceedings, purportedly due to the Level 3 SQRP Rating it achieved. The CPS ordered BSI-BASA to prepare a Remediation Plan, which it submitted and which was ultimately approved by CPS. The Remediation Plan itself expressly stated that the single criterion BSI-BASA would need to satisfy to "exit" the Academic Warning List and revocation proceedings was that "the school must not be rated a Level 3 on the SQRP" for the SY 2015-2016. This single goal and exit criteria was repeated and reinforced by several other documents that CPS provided to BSI-BASA. On October 27, 2015, pursuant to the terms of the Remediation Plan, when BSI-BASA achieved a Level 2 SQRP rating, it became ineligible for revocation during the 2015-2016 school year on the basis of its academic performance.

CPS insists that only "successful" implementation of the Remediation Plan by BSI-BASA and not achievement of "an SQRP Rating Level other than 3" alone could have precluded revocation. However, even if the Commission were to accept that argument, an interpretation of the Plan requiring BSI-BASA to demonstrate full implementation of the Plan's ten academic performance goals and five strategic priorities, would necessitate a finding that CPS's revocation decision was at minimum, premature. CPS approved a Remediation Plan for BSI-BASA to implement and demonstrate improved performance over the course of SY 2015 and 2016. The record contains no evidence that BSI-BASA would not have been able to reach its academic goals by the 2016

BSI required written notice before June 30, 2014 regarding its plan to adopt either Policy during the 2014-2015 school year such that application of those policies would be proper under Paragraph 9 of the Charter Agreement.

school year. Yet, CPS determined that because BSI-BASA met some, but not all ten of the individual goals it had set for 2015, the BASA Campus “failed to implement the Plan.” To the contrary, the Commission concludes that due process required that CPS give BSI-BASA more than eight (8) months to work on the two-year Plan before it could have reasonably concluded that the school failed to implement it.

In addition, the CPS conclusion that BSI-BASA “failed to implement” the Remediation Plan is refuted by the fact that BSI-BASA did make substantial academic improvement from the 2014 school year. BSI-BASA moved up from the lowest SQRP Rating and exited the Academic Warning List. CPS was unable to provide the Commission with any evidence of the metrics or criteria other than the Remediation Plan that it actually utilized to evaluate BSI-BASA’s progress or implementation of the Plan and deem it a failure. Nor did CPS offer any evidence to contradict the finding that BSI-BASA achieved a Level 2 SQRP Rating for the 2015-2016 school year. Accordingly, contrary to the November 18, 2015 Board Report and other documentation CPS presented in support of the CPS Board revocation decision to close BSI-BASA, the Commission concludes that BSI-BASA did meet “the pupil performance standards identified in [its] charter” and was therefore ineligible for revocation in November 2015.

For these reasons, CPS did not meet its burden to clearly demonstrate that BSI-BASA failed to meet or make reasonable progress toward achievement of the pupil performance standards identified in the Charter Agreement, as required under 105 ILCS 5/27A-9. The CPS decision to revoke the BSI Charter with regard to the BASA Campus does not comply with the Charter Agreement or Illinois Charter Schools Law and for this reason alone warrants reversal.

C. Best Interests²

For review of a revocation decision, the best interests’ analysis is conducted in two parts. First, the Commission evaluates whether the school’s current performance is sufficient to meet the Commission’s standards for academic performance, organizational capacity, and facilities/finance. The Commission also considers whether any of the legislative priorities identified in the Charter Schools Law – (1) high level of local student, parent, business, school, or broader community support; (2) rigorous academic achievement programming; (3) intentional design to enroll and serve at-risk children – would be advanced by a decision to authorize the charter school on appeal. Second, the Commission seeks to determine if there are accessible, better performing options for students currently enrolled at the school by reviewing the performance and availability of seats at assigned schools.

²Arguably, a finding that the CPS revocation decision does not comply with the Charter Schools Law supports reversal and grant of BSI’s appeal as a matter of law. However, the Charter Schools Law and Commission precedent is consistent with review of legal compliance and best interests on appeal. In light of the primary goal, the Commission will continue to observe the practice of reviewing matters relating to both legal compliance and best interests that are presented on appeal, regardless whether the appeal involves review of a proposal to establish a new charter school, a non-renewal or as here, a revocation decision.

1. Commission Assessment of BSI-BASA Performance.

Academic Performance. The Commission has concluded that BSI-BASA does not meet Commission standards with regard to academic performance. Over the course of the current charter term, the performance of BSI's schools has been inconsistent. BSI's high school campus will be closed, after a multi-year phase out at the end of the 2015-2016 school year. CPS placed the two elementary schools, Betty Shabazz Academy and BSI-BASA, on the Academic Warning List based on SY 2013-14 academic performance because they both received Level 3 SQRP ratings. However, in one academic year, BSA improved its SQRP Rating from a Level 3 to a Level 1, while BSI-BASA increased from a Level 3 to Level 2.

To address its schools academic performance issues, BSI has added network level academic staff over the past two years, including a chief instructional officer (CIO), reading specialist, special education director, and socio-emotional learning leader. In the last two years, in addition to a new principal, BSI-BASA has added school level staff, to build capacity for an increased focus on data driven instruction, including an instructional coach, director of operations, and a dean of students. BSI-BASA has shown recent increases in reading growth. However, attainment in reading continues to be a problem and reading scores remain very low.

Organizational Capacity. The Commission has determined that BSI-BASA did meet the standards set by the Commission for organizational capacity. BSI currently has staff capacity and existing infrastructure to support some LEA functions, including transportation, food service, and special education services. The current principal started at BSI-BASA in SY 2014-15. During her tenure, she added an instructional coach, a director of school operations, and a dean of students to the school's leadership team. Additionally, the principal identified low quality instruction as a key driver of poor academic performance, and has replaced 75% of the staff since fall 2014.

BSI-BASA's enrollment target for the 2014-15 and 2015-16 school years was 320 students. However, the school has reached a high enrollment of about 300 and a stable enrollment of approximately 280. The school took steps to address concerns regarding high rates of student turnover and this year, BSI-BASA successfully lowered in-year student turnover rates to about 11%, a decrease of over 20 percent.

With regard to governance of BSI, both the network Chief Executive Officer and Chief Instructional Officer report directly to BSI's Board of Directors. The appeals review process revealed a need to strengthen lines of accountability or transparency as to how the BSI Board holds the CEO and CIO accountable for academic and overall performance of the charter school.

Facilities and Finance Management. The Commission has determined that BSI-BASA does not meet the standard that it sets for Commission schools with regard to facilities and finance management.

CPS has not committed to continue to allow BSI to lease its current facility if the appeal is granted and school is allowed to remain open. CPS maintains that all charter school building leases are written to accompany a charter school's charter agreement. Although BSI identified

an independent facility to locate if CPS does not make the current building available, the full cost of securing and renovating the facility is unclear. Nonetheless, BSI-BASA arguably has presented two viable options to locate if the appeal is granted.

BSI currently has network-level staffing, including a comptroller, and infrastructure that would be sufficient to support financial management if the Commission grants the appeal. However, BSI would need to engage fiscal support to segregate finances and establish fiscal controls for the separate charters, the enhanced responsibilities that will accompany LEA status and to ensure sufficient transparency and adherence to generally accepted accounting principles (GAAP).

BSI will require some additional work to include the level of detail needed for a comprehensive five-year budget projection. Additionally, the charter school's overall cash position is weakened by the phase out of the DuSable Campus and maintenance of the fees related to continued operation of the facility notwithstanding the declining enrollment. BSI has continued to pay the full rent amount for use of the DuSable facility despite the fact that the building is not being fully utilized and per-pupil funding decreased year-over-year based on phase-out plan. Stabilization of the enrollment at BSI-BASA will be important for BSI's ability to meet standards with regard to facilities and finance management.

2. Legislative Priorities.

BSI-BASA has been able to advance two of the Charter Law's stated legislative priorities and would continue to serve this function as a Commission authorized school.

Level of Community Support. Throughout the appeal process, BSI was able to demonstrate that BSI-BASA as well as its other campuses enjoy extensive support throughout the local school community among students, parents, and faculty as well as the broader community that the BASA Campus serves. The public hearing was attended by more than 250 people and approximately 50 individuals provided comments in support of BSI's appeal. Additionally, the Commission received letters of support for BSI-BASA from numerous local public officials and community representatives.

At-Risk Populations. BSI-BASA advances the goal established by Illinois legislators to serve students traditionally seen as educationally at-risk. BSI-BASA is located in the Englewood community on Chicago's south side and serves a student population that is 98% African-American and 92% Low Income. BSI's mission is "to provide a safe environment and an academically rigorous program of instruction that integrates and balances cultural knowledge and promotes excellence in reading, oral and written language, mathematics, science, technology, social studies and the arts and humanities." BSI's campuses maintain a curriculum that features a focus on Africa and the African Diaspora.

3. Availability of Educational Options for Current BSI-BASA Students.

During the majority of the appeal process, CPS offered to make four different schools available to BSI-BASA students to attend upon BSI-BASA's closure. CPS offered to facilitate application and enrollment at those schools, but did not guarantee placement into any of the school options. When asked during the joint interview and public hearings about transition plans and placement for impacted students, CPS did not provide any information regarding guaranteed placement or

transportation. Instead, throughout the majority of the appeal process, the only guaranteed placement available for families was the students’ assigned or zoned school.

Commission Staff conducted an analysis of the assigned schools for BSI-BASA’s 269 students and found that if all BSI-BASA students enrolled in their assigned schools, only 30% of them would have moved to a higher performing school in good standing.

SQRP Rating Level	Accountability Status	% (number) of students zoned to attend	# of schools
1+	Good Standing	6% (15)	8
1	Good Standing	10% (27)	9
2+	Good Standing	14% (37)	8
2	Remediation	62% (167)	27
3	Probation	8% (22)	6

At the public meeting on March 1, 2016, CPS announced that the Transition Team had worked to secure seats for BSI-BASA students in a larger pool of high performing schools. As a result, CPS guaranteed that BSI-BASA students whose assigned school was not better performing than BSI-BASA would have access to seats in one of three other elementary schools that were better performing. CPS also promised to provide transportation for students needing it in order to attend two of the three new schools for at least one year. BSI-BASA and the Commission received written notice of these guaranteed seats from CPS less than twenty-four (24) hours prior to the Commission public meeting to deliberate and vote on the BSI appeal. The lack of notice left the Commissioners virtually no time to evaluate the new school options or for BSI to communicate the new information to parents and students and obtain feedback in advance of the Commission vote.

The Commission weighed the BSI-BASA’s ability to meet the standards established by the Commission, as well as the extent to which the BASA Campus is currently advancing legislative priorities under the Charter Schools Law and whether the students that BSI-BASA currently enrolls would be better served by attending their assigned schools and their access to better performing schools. On the whole, the Commission concludes that it is in the best interests of the current students at BSI-BASA to reverse the CPS revocation decision.

First, the students’ best interests cannot be neatly extricated from the Commission’s finding that the CPS Board’s revocation decision did not comply with the Charter Schools Law. It is in the best interests of students, families and the local community at BSI-BASA to be able to trust that the Charter Agreement BSI has with the school’s authorizer will be followed and that the due process protections owed to students, teachers and others in the school that is subject to revocation be afforded to them before the school is closed and students and families are forced to attend a different school. Allowing BSI-BASA to remain open for the 2016-2017 school year when the record demonstrates that it was not eligible for revocation on November 18, 2015 is wholly consistent with the BSI-BASA’s best interests.

Second, even though BSI-BASA does not meet the Commission's standards at this time on each domain, BSI has demonstrated that implementation of its Remediation Plans can achieve improved academic results at its elementary schools. The Charter School showed marked improvement in the SQRP Ratings at the BASA Campus and the Betty Shabazz Academy within one school year. With more time to execute changes, the Commission expects that BSI-BASA will continue to improve in the areas where it currently does not meet Commission standards – academic performance and finance and facilities management.

Third, even though BSI-BASA's overall performance falls below Commission standards for high quality educational options, the record shows that majority of the assigned schools that will be available to BSI-BASA students are not performing substantially better than BSI-BASA. This means that some of the receiving schools BSI-BASA would transfer to may themselves become the subject of closure or revocation in the near future. At the public meeting on March 1, 2016, parents and teachers offered testimony that many of the students enrolled in BSI-BASA have already transferred from a school that was closed due to academic performance and would be forced to transfer again upon the revocation of BSI-BASA's charter. It is not in the best interest of these students to subject them to serial, involuntary school transfers.

Additionally, the record includes statements from area police officers who report numerous school safety, security and student disciplinary issues that persist at other area schools and in contrast to BSI-BASA. At the public hearing on February 22, 2016 and at the March 1, 2016 public meeting, a large number of speakers urged the Commission to keep BSI-BASA open because it was the safest option in the community for students to attend.

The last minute offer from CPS to offer BSI-BASA students a guaranteed seat and transportation to a better educational option unfortunately came too late. Without the ability to analyze the performance and other information regarding the schools CPS proposed as better options, the Commission was not in a position to conclude that the schools CPS offered to send BSI-BASA students would actually provide them with a better education. If BSI-BASA students are left only with their assigned schools, there can be no question that BSI-BASA is a safer, higher quality educational option for BSI-BASA students. Accordingly, the Commission concludes that it is in the best interests of the students currently enrolled at BSI-BASA to grant the BSI appeal and allow the school to remain open during the 2016-2017 school year.

V. Conclusion

For all of these reasons, and those stated at the public meeting of March 1, 2016, the Commission agrees with Commission staff that CPS District 299 did not comply with the Accountability and Revocation provisions of the Charter Agreement it has with BSI and therefore did not comply with the Illinois Charter Schools Law. The Commission also concludes that grant of the BSI appeal would be in the best interests of the students currently enrolled at the BSI-BASA. Accordingly, on the basis of the information presented to the Commission on appeal, the Commission concludes that reversal of CPS's decision to revoke BSI's charter as it relates to the BASA Charter is warranted. The appeal is GRANTED.

The Commission reverses the CPS charter revocation decision and reinstates the charter for Betty Shabazz International Charter School, BASA campus, through the existing term of June

30, 2018, subject to the execution of a Charter Agreement that includes the following express conditions:

- 1) Approval of a charter agreement by the Commission Staff that includes a refined plan to strengthen the academic program and organizational capacity of the board;
- 2) Approval of a Lease and Facility Plan by the Commission Staff, to include a pre-opening checklist and timeline which shall include updated financial projections for facility plan and as an LEA; and
- 3) Submission of Letter of Intent to Enroll Forms for a minimum of 80% of BSI-BASA's enrollment cap.

The Commission's Counsel is authorized to include relevant terms and conditions in the written Agreement, which shall reflect resolution of any and all outstanding issues between the Commission and the governing body of the charter school, including, but not limited to: charter authorization, site location, funding, Commission fees, financial controls and practices, academic accountability and evaluations.

Dated: March 17, 2016