Request from Elevate Academy for Three Learning Centers
June 18, 2015
The Request

Elevate Academy, a multi-district, online K-12 charter school authorized by the Byers school district, has submitted an MOU to open three learning centers within DPS boundaries.

Total requested student enrollment is 150 students.
How does statute encourage districts to evaluate such requests?

The Online Education Act allows a district to refuse execution of an MOU, only if:

1. The MOU is improperly constructed, as defined in statute; and/or

2. The district “reasonably determines that the multi-district online school is contrary to the best interests of the pupils, the parents, community or school district.”

The school has the right to appeal to the State Board of Education, if refused.
How does statute encourage districts to evaluate such requests?

The Online Education Act further compels a district receiving an MOU to:

1. **Host a public meeting, in partnership with the school.** DPS held this meeting on Wednesday, June 17, 2015 at 11:00 am at 1860 Lincoln, Denver, CO 80203 in room 1135. We have further invited public comment on this matter at tonight’s Board meeting.

2. **Meet with the multi-district, online school.** The first meeting was held by phone on June 12, 2015. An in-person meeting occurred immediately after Wednesday’s public meeting.

3. **Issue public notice.** Because the three learning centers are proposed in three very different neighborhoods of our district (Villa Park, Lowry and Curtis Park), DPS placed a notice in the Sunday *Denver Post* on June 14, 2015. The school consented to this form of public notice by phone on June 12, 2015. The school also provided public postings to the sites of its intended learning centers, although DPS has not received records for those postings.
How has staff developed this recommendation to the Denver Board of Education?

<table>
<thead>
<tr>
<th>Statutory Criteria</th>
<th>Indicators</th>
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<tr>
<td>Proper construction of MOU</td>
<td>Staff has evaluated the construction of the MOU, based on requirements in statute.</td>
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<td>Best Interest</td>
<td>Staff sought to develop a “preponderance of evidence” analysis.</td>
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MOU Analysis

Staff review determines the MOU was delivered with the statutorily defined elements. However, the evidence included for some elements are inconsistent or fail to provide adequate detail.

<table>
<thead>
<tr>
<th>Description of curriculum</th>
<th>Provided a course catalogue, but no description of the instructional tools (textbooks, online curricula) that will be used in those courses. Staff subsequently determined that the school contracted with Florida Virtual School-Global for online curricula.</th>
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<tbody>
<tr>
<td>Proposed location of learning center</td>
<td>Provided three addresses (see Appendix B)</td>
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<tr>
<td>Grade levels to be served</td>
<td>Lists K-12. The website provided in the MOU, however, lists Elevate Academy as a 7-12 provider. In the meeting with the school, the school indicated that not all learning centers would offer a full K-12 program.</td>
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<td>The number of students to be served</td>
<td>Lists 150 total, but does not differentiate intended enrollment at each learning center</td>
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<td>Building permits or certificates of building safety</td>
<td>Provided adequate documentation and agreed to provide some further clarification.</td>
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<td>List of learning center roles and job descriptions</td>
<td>Provided a list of roles and job descriptions</td>
</tr>
<tr>
<td>Compliance with licensure and finger-print based background checks</td>
<td>Properly noted that charter teachers are not required to have licenses, but do have to be highly qualified under NCLB. Described process for finger-print based background checks.</td>
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<tr>
<td>Names and contact information for the school and for learning center administrators</td>
<td>Provided names and contact information for the school. Did not provide names and contact information for learning center administrators. In the meeting with the school, the school agreed to provide the names of intended learning center administrators.</td>
</tr>
<tr>
<td>Plan to hold a public meeting</td>
<td>This meeting was held on Wednesday, June 17, 2015.</td>
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</table>
How has staff developed the best interest analysis?

Staff inquiries on “best interest” have focused on attempts to understand:

1. The educational program offered by the school (and thus its learning centers).

2. The authorizing practices of the Byers School District, as it, not DPS, possesses oversight responsibilities for the charter school, which runs the learning centers.

3. The structure and practices of the school’s governing board.

4. The school’s ELA programming.

5. The nature of the special education arrangement with the BOCES, which serves as the LEA for Byers (the authorizer).
How has staff developed the best interest analysis?

In undertaking its best interest analysis, staff reviewed:

1. The charter application
2. The application submitted to CDE for certification as an online multi-district charter school
3. Minutes from the authorizer’s Board meetings
4. Authorizer’s Board policies on charter authorizing
5. Minutes from the BOCES’s meetings
6. A list of Board directors, bylaws, articles of incorporation and a set of Board minutes for the school.

Staff also considered information obtained from the meetings with the school and separate discussions with counsel.
How has staff developed the best interest analysis?

Staff was unable to locate or secure some information, including:

1. Financial documents for the school, as required by the Financial Transparency Act.
2. Documentation related to the Rocky Mountain Charter Collaborative, which appears to be providing SPED services to the school.
3. Governing policies of the charter school’s Board, apart from bylaws.
4. The authorizing district’s Superintendent declined to answer follow-up questions.
## Best Interest Analysis

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<tr>
<th>Area</th>
<th>Finding</th>
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<td>Educational Program</td>
<td>Staff acknowledges that this school has essentially been vetted by three organizations already: its authorizer, the BOCES and the State BOE. DPS notes that inconsistencies exist across documents, and the program continues to evolve.</td>
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<tr>
<td>Authorizing Practices</td>
<td>The Byers Board of Education has a set of policies, drawn directly from statute, related to charter authorizing practices. The certification application to the state did include information about how the authorizer would oversee aspects of a multi-district online school.</td>
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<td></td>
<td>The minutes indicate the Board voted to approve three online charter schools on January 8, 2014, and approved a fourth, which we believe was Elevate Academy, on March 20, 2014. Board minutes do not reflect any further discussion of the charter schools, although there was brief discussion at the Sept. 14, 2014, meeting about how to pay Byers staff members to report information about online schools to the State. In the meeting with the school, the school indicated it was delivering its “annual report” to the authorizer this evening.</td>
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<tr>
<td>Area</td>
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<tr>
<td>Charter Governance</td>
<td>The school’s Board consists of five directors. (See Appendix C). An advisory board also supports the school. (See Appendix D). DPS reviewed the organization’s articles of incorporation and its bylaws, as well as a set of minutes from its Board meetings, during which its directors did discuss academic performance and financial health. DPS was, however, unable to secure records that should be easily accessible under the Financial Transparency Act. Staff also was unable to secure the Board’s policies. (The Board described itself as a policy governance board.)</td>
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<td>ELA Programming</td>
<td>The charter application provided little detail about service to ELLs, and the application for certification to the State described differentiated curricula and SIOP as core strategies. In the meeting with the school, the school said it provides ELD instruction and uses ELD curricula from Pearson. The school further noted that the FLVS Global curricula is offered in Spanish.</td>
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## Best Interest Analysis

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<td>Special Education</td>
<td>The authorizer is a small district that is part of the East Central BOCES, which serves as the administrative unit for the school and serves as the LEA for members of the BOCES. Per the BOCES minutes, the Rocky Mountain Charter Collaborative, which has a relationship with Elevate Academy and three other online schools authorized by Byers, engaged with the BOCES, on behalf of the schools for LEA purposes. Per the BOCES’s minutes: 1. The contract between the BOCES and the Collaborative indemnifies the BOCES of any possible legal costs. 2. The Collaborative provides all special education and related services to students with IEPs. 3. The BOCES is responsible for oversight and reporting. 4. The BOCES withholds 10% of federal special education funding for services, training, and routine consultation. Based on this information, we believe the Collaborative is providing SPED services to the four charter schools. DPS was unable to locate or secure any documentation related to the Rocky Mountain Charter Collaborative, its relationship to Elevate Academy, any financial relationship between the Collaborative and the school, or the Collaborative’s ability or history of providing special education services.</td>
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Findings

Staff does not believe the Board should execute the MOU as it is currently constructed.

Staff believes the “best interest” analysis revealed some areas of concern, including those related to special education. With more time and delivery of appropriate documentation, however, those issues may be resolvable.
Recommendation

Do not approve the MOU at this time, but provide notice of the District’s intent to execute an MOU upon satisfactory review of school application materials and upon commitments and modifications being made to ensure that all statutory criteria are met; authorize staff to review and discuss those commitments and modifications; and authorize the Superintendent or his designee to execute at a later date.

The plain language of the statute provides that the District must provide notice to the School and the State Board of its intent to enter into or deny the MOU within the 45-day deadline. Accordingly, the District can take the position that, so long as it provides its intent within the deadline, it can execute the MOU outside the 45-day window. This provides the District with additional time to resolve concerns, and the MOU could be executed by the Superintendent.
Appendices
Appendix A: Key Definitions

• A multi-district online school “means an online school that serves a student population drawn from two or more districts.”

• A learning center means “a facility in which a consistent group of students meets more often than once per week under the supervision of a teacher or mentor for a significant portion of the school day for the purpose of participating in an online program.”
Appendix B: Proposed Locations of Learning Centers

**810 Knox Court** – In Villa Park neighborhood, currently listed in the Denver Property Assessment and Taxation System as ASSEMBLIES OF GOD & WESTSIDE CHRISTIAN FELLOWSHIP as an Industrial/Church Property Type

**7711 E Academy Blvd** – In Lowry neighborhood, currently listed in the Denver Property Assessment and Taxation System as AVIATION & SPACE CENTER (Wings Over the Rockies) as an Industrial/Recreational Misc. Property Type

**2980 Curtis St** – In Curtis Park neighborhood, currently listed in the Denver Property Assessment and Taxation System as the HOUSING AUTHORITY as a Commercial – Office Building Property Type
Appendix C: Elevate Academy Board Members

Caitlin Alexander, Founder & Board Treasurer: Mrs. Alexander is a parent and licensed CPA who has worked in the fields of education and technology for more than fifteen years. Caitlin has earned degrees in accounting and an MBA.

Brian Bissell, Founder & Board President: Mr. Bissell is a parent and businessman who has served for more than twenty years as a finance and technology executive within education. Brian has an earned MBA and has served as a volunteer director on boards and committees for many government and nonprofit organizations including municipalities, public schools, and a public liberal arts college.

Dave Foster, Founder & Board Member: Mr. Foster is a parent and businessman who has served for more than twenty-five years as an educational policy maker and administrator. Dave has earned degrees in accounting, English, management and nursing. Dave contributes unique insights to the Board as the parent of home-based learning students in addition to his academic expertise.

Alan Pue, Founder & Board Member: Dr. Pue is a parent and educator who has served for more than thirty-five years as an educational policy maker and administrator. Alan has served as a teacher, guidance counselor, principal, and college provost. He has earned degrees in education and educational leadership. Alan’s areas of expertise include strategic planning, governance, and marketing.

Lew Taylor, Founder & Board Member: Mr. Taylor is a parent and businessman who has served as a corporate real estate professional in Colorado for over 20 years. Lew has earned an MBA and is the former chairperson of the Cherry Creek Schools Foundation Board. The Board’s effectiveness is enhanced through Lew’s contribution of his business and regulatory expertise.
Appendix D: Elevate Academy Advisors

**Ron Benton**: Mr. Benton is a career educator who has worked in K--12 education as a teacher, principal, and superintendent of private and public schools as well as serving as vice president for a university.

**Bill Bethke**: Mr. Bethke is a founding partner of Kutz & Bethke, LLC, and Cottonwood Charter Consulting LLC.

**Eric Hall**: Mr. Hall, who practices in the Colorado Springs office of Lewis Roca Rothgerber, represents religious institutions and schools in a variety of legal matters.

**Jim Griffin**: Mr. Griffin is the founding President of Momentum Strategy & Research. Previously, Jim was the President of the Colorado League of Charter Schools.