



August 8, 2001

Ms. Peggy Cooper Cafritz  
President  
D.C. Board of Education  
825 North Capitol Street N.E., 9<sup>th</sup> Floor  
Washington, D.C. 20002

Re: The Charter Revocation Process and Related Matters

Dear Ms. Cafritz:

I was in attendance at the meeting this afternoon at which the Board discussed the revocation of three charters. I am writing because it was clear to me that Board members were operating without sufficient understanding of the requirements of the revocation process. Even more worrisome, some comments made by Board members and actions taken by the Board indicate a clear misunderstanding about the relationship between the Board and the charter schools it monitors.

### The Charter Revocation Process

As you know, the revocation procedure is set out in D.C. Code §31-2853.23. Under this procedure, the vote taken at today's meeting was not a vote to revoke but a vote to begin the revocation process. Thus, the charter schools that request a hearing are not "appealing" a decision, as some board members said, because, as you are well aware, decisions are made *after* hearings, not before. To the extent that the Board members have made up their minds on this question (as appeared from comments made at today's meeting), the Board is violating the rights of these charter schools to a fair hearing on the matter of revocation.

Please be aware that once the Board "is proposing to revoke a charter," which is the case after today's meeting, the Board must send a *written* notice to the affected schools stating the reason for the revocation and informing the schools of their right to a hearing.

The schools have 15 days *from the day they receive the written notice* to request a hearing.

### Freezing of Assets and Otherwise Interfering with School Operations

It goes without saying that the Board has no authority to freeze the assets of these charter schools prior to a final decision on revocation, if then. The charter schools stand in a much different relationship to the Board than do the traditional public schools. Unlike the latter, the charter schools are independent non-profit corporations, whose independence (and broad powers) are defined in the School Reform Act. The Board's authority to monitor the schools' progress and compliance with the law does not give the Board any control whatsoever over the schools' funds. Beyond the

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Robert Cane

illegality of such an action, please keep in mind that these schools, which may well open in the fall, have staff who need to be paid and expenses that must be met.

Similarly, the Board has no authority to contact the schools' parents to suggest alternatives until a decision has been made to revoke the schools' charters. Again, the purpose of the hearing is to enable the schools to present information and argument on the question of whether their charters should be revoked. Any action you take in advance of the hearing to interfere with the schools' ability to open in the fall should they retain their charters is illegal and unethical.

#### Board's Delay in Dealing With this Matter

According to a statement Ms. Mikuta made at today's meeting, revocation for these schools is being sought, in large part, because the Board's monitors have reported the same deficiencies at each over a period of two years and more. If this is so, why has the Board waited until just a few weeks before school starts to begin the revocation process, which will take several weeks at a minimum? What does the Board know today that it did not know in May or December?

Surely the Board is aware that these schools have been preparing for months for their opening in the fall. Staff – including many new staff – have been hired; some have left other jobs to take their positions (including principals). Students have been enrolled, books have been ordered, and so on.

Unless the Board has discovered emergent conditions that place students in jeopardy it is irresponsible to begin the revocation process now. People's livelihoods are at stake and students, the very people about whom the Board claims to be concerned, are going to have their lives disrupted.

#### Parent Support for the Schools

Your comment at today's meeting that the absence of parents in the audience indicated that parents either do not support or do not care about these schools was baffling. First, at no time during the meeting did you ask whether there were any parents present. Second, the meeting was held at 2:00 p.m. on a workday, a difficult time for working parents. Third, it was poorly noticed (in this regard, please note that FOCUS has been trying to get on the notification list for Board meetings without success since late 1998).

Finally, and most important, no public comment was permitted at yesterday's meeting.

It is at the hearing that you should expect parents who support the school to show up and speak, not at a Board meeting at which Board members talk among themselves about whether they want to revoke the charter.

#### Seizure of Financial Documents

I am in possession of a copy of your letter of July 27 to several schools demanding that they permit the DCPS Director of Security to "secure" all contracts, financial records, and "supportive" documentation. As I'm sure your lawyers would tell you, the Board's authority to require a charter school to produce books and records does not extend to the

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seizure of those records without a court order. As with the freezing of assets, the Board is not authorized to treat the public charter schools as it would its own schools.

Equally offensive and demonstrative of the Board's lack of understanding of the School Reform Act is the use of DCPS personnel to seize records and conduct an audit of those records. The public charter schools are expressly excluded from the definition of DCPS in the School Reform Act. For that reason and because DCPS and the public charter schools are competitors, it is entirely improper to use DCPS personnel to do anything connected to the public charter schools unless expressly authorized by the Act.

We urge you to return the records to the schools without delay.

In conclusion, let me say that FOCUS – and everyone connected with the public charter schools in the District – supports the closure of poorly performing schools. We must insist, however, that the Board follow the law and commonly accepted notions of due process in seeking to close schools – and in all of your dealings with the charter schools.

Sincerely,



Robert I. Cane  
Executive Director

cc: Members of the Board of Education  
Members of the Education Committee of District Council  
Michelle Seligman, Office of the Mayor