

**BEFORE THE PUBLIC CHARTER SCHOOL COMMISSION
STATE OF IDAHO**

In the Matter of the Charter Renewal for:

Case No. 21-52502

ANOTHER CHOICE VIRTUAL CHARTER
SCHOOL, INC.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND FINAL ORDER**

INTRODUCTION AND PROCEDURAL HISTORY

1. This matter came for hearing before the Idaho Charter School Commission (“Commission”) on February 11, 2022. The hearing concerned whether to renew, renew with conditions, or nonrenew the charter held by ANOTHER CHOICE VIRTUAL CHARTER SCHOOL, INC. (“ACVS”) pursuant to Idaho Code section 33-5209B. The hearing was conducted in person in the West Conference Room of the Joe R. Williams Building, located at 700 W. State Street, Boise, Idaho. All members of the Commission were present. Chairman Alan Reed presided over the hearing. Bret Walther of Anderson Julian & Hull, LLP represented ACVS. Deputy Attorney General Rachel Kolts represented Commission Staff.

2. The parties offered documentary evidence, as follows: Commission Staff offered Exhibits A through NN and ACVS offered Exhibits 1 through 9. Prior to the hearing, the parties stipulated to the admission of Commission Staff Exhibits A through HH, and JJ through NN; and to ACVS Exhibits 1 through 7. Commission Staff objected to the admission of ACVS Exhibits 8 and 9, and ACVS objected to the admission of Commission Staff Exhibit II. The objections to the exhibits were taken up at the hearing. ACVS withdrew Exhibits 8 and 9, and Commission Staff withdrew Exhibit II.

3. The following witnesses provided testimony at the hearing:

On behalf of Commission Staff:

Jenn Thompson, Director of the Idaho Charter School Commission

On behalf of ACVS:

Dr. Laura Sandidge, ACVS Administrator
Lori Lyman, ACVS Board Chairman
Ross Jones, ACVS Chief Financial Officer
Victoria Murphy, Teacher, ACVS
Denice Vincent, Teacher, ACVS
Cara Mia Dorrian, Teacher, ACVS
Claudia Frent, Parent
Marnie Dundas, Parent

4. At the conclusion of the hearing, the Commission carefully reviewed and considered the testimony and materials presented by the parties, and orally voted on a resolution of this matter. Pursuant to Idaho Code section 33-5209C(5), this written Order memorializes the Commission's decision in this matter.

FINDINGS OF FACT

5. ACVS opened in 2010, with a mission focused on academic achievement. Ex. A at 3. It currently serves approximately 400 students in grades K-12, and offers a virtual instructional model with multiple student labs.

6. The Commission granted ACVS a Charter School Performance Certificate on June 30, 2017, which authorized ACVS to operate as a public charter school in Idaho for a term of five years with conditions, effective July 1, 2017. Ex. B.

7. ACVS filed a Charter Renewal Application in 2021. *See* Ex. 6 and Ex. D.

8. On November 15, 2021, the Director of the Idaho Public Charter School Commission ("Director") sent ACVS a Notice and Acknowledgment of Commission Director's Recommendation for Nonrenewal of Charter ("Recommendation"). Ex. C. The Recommendation recommended that ACVS's charter not be renewed for reasons relating to ACVS's failure to meet the terms of its Performance Certificate. Specifically, the Recommendation listed the following reasons that ACVS's charter should not be renewed: (1) ACVS did not meet standard on

“Operational Measure 3a: Governance Requirements” of the Commission’s Performance Framework; (2) ACVS did not meet standard on Operational Measure 3d: Public Transparency” of the Commission’s Performance Framework; (3) “ACVS did not meet standard on Operational Measure 3c: Reporting Requirements” of the Commission’s Performance Framework; (4) ACVS did not meet standard on “Operational Measure 3b: Board Oversight” of the Commission’s Performance Framework; (5) ACVS did not meet standard on “Operational Measure 5a: Additional Obligations” of the Commission’s Performance Framework; (6) ACVS has had consistently low academic performance during the current Performance Certificate term; and (7) the financial audit for the fiscal year 2021 reflects outcomes indicative of financial distress. *See* Ex. C at 2-6. *See also* Ex. J (detailing how ACVS’s outcomes during the most recently completed school year measure up against the expectations established in the Performance Framework); Ex. G. at 16 (summarizing ACVS’s academic, operational, and financial performance between 2016 and 2021). In addition, the Recommendation informed ACVS that it must either accept the Director’s recommendation as presented or request a hearing by no later than December 15, 2021. Ex. C at 1-2.

9. ACVS timely notified Commission Staff that it did not agree with the Recommendation and requested an administrative hearing. *See* Ex. D at 2. It also provided a response detailing the changes that ACVS had implemented or proposed to be implemented, to address the concerns outlined in the Recommendation. Ex. D at 3-25. Specifically, ACVS responded as follows:

- a. ACVS acknowledged that it did not meet standard on Operational Measure 3a: Governance Requirements. ACVS provided background as to why it was an issue and asserted that it had taken several steps to address the concern. First, ACVS stated that

Board membership has been increased from five to seven and that Board members have received and will continue to receive training regarding Board ethics and governance through the Idaho School Boards Association (“ISBA”) and through Anderson, Julian & Hull, LLP. Further, ACVS asserted that the ACVS Board worked with the ISBA to structure, model, and update its policies per school district and charter school policy manuals. In addition, ACVS stated that Kevin McLaren, ACVS Board member, and Dr. Laura Sandidge, ACVS Administrator, resigned to ensure that no conflict of interest or mismanagement issues occurred. ACVS also expressed its willingness to accept additional suggested improvements from the Commission. Ex. D at 3-5.

b. ACVS acknowledged that it did not meet standard on “Operational Measure 3d: Public Transparency” of the Commission’s Performance Framework. It explained that the issue was related to a concern that the ACVS Board may have violated the Open Meetings Law by failing to post the agenda in the summary and that the issue was resolved after ACVS made changes to its website. In addition, ACVS noted that it enhanced the ease of accessing information on its website, which has increased data security and transparency. Ex. D at 8-10.

c. ACVS addressed the issue that it was not meeting standard on “Operational Measure 3c: Reporting Requirements” of the Commission’s Performance Framework by describing changes it had made to staff responsibilities. Specifically, ACVS stated that in around spring 2021, ACVS restructured key roles, which required staff to learn new tasks. According to ACVS, those staff members received significant training. ACVS asserts these changes have been beneficial to ACVS on working toward meeting standard on “Operation Measure 3c: Reporting Requirements.” Ex. D at 6.

d. ACVS acknowledged that it did not meet standard on “Operational Measure 3b: Board Oversight” of the Commission’s Performance Framework and acknowledged that this measure required the ACVS Board practice consistent and effective oversight over the school and its administrator. ACVS asserted that it did not recognize any issue regarding the relationship between Dr. Sandidge and ACVS as the relationship had been documented at the school’s inception and ACVS believed the Commission was aware of the relationship. ACVS explained that it has updated its practices relating to procurement and made adjustments to how key responsibilities are delegated to staff so that tasks are completed comprehensively and timely. Ex. D at 5-6.

e. Regarding not meeting standard on “Operational Measure 5a: Additional Obligations” of the Commission’s Performance Framework, ACVS asserted that the standard was still in progress based on the timeframes outlined by the Commission. According to ACVS, the Commission did not inform Dr. Sandidge that she needed to complete an ethics training prior to recertification in 2025, and as a result, Dr. Sandidge had not completed the training as of at least December 15, 2021. Ex. D at 5.

f. ACVS acknowledged that it has had consistently low academic performance and that it has not met the growth measures in Academic Outcomes during the current Performance Certificate term. But it stated that this outcome is still in progress. ACVS described the efforts it took to increase Academic Outcomes for all students attending the school. It noted that it was involved with the Department of Education School Improvement Project between the 2018-2019 school year through the 2021-2022 school year; and that because of the progress ACVS has made, it is no longer eligible for that program. ACVS asserted it has worked individually with each student to help them grow

in ELA, Math, and Informational Reading. ACVS also asserted that its student demographic impacts graduation rates. ACVS described three changes made that have significantly impacted students and staff: (1) all students in grades K-12 are required to take the NWEA Measuring Academic Performance (“MAP”) tests three times per year; (2) depending on the MAP test scores, students are given additional classes or are placed in different classes to help them grow; and (3) ACVS curriculum is aligned with the State standards and embeds progress monitoring to ensure students are achieving. Ex. D at 11-14.

g. ACVS disagreed that its financial audit for the fiscal year 2021 reflected outcomes indicative of financial distress. ACVS asserted that it did not experience financial hardship as it was responsible with its budget and accumulated sufficient funds to withstand potential hardship. Further, ACVS emphasized that its auditor found that ACVS’s ending fund balance/carryover for FY2021 is on the high-end of their reserve recommendation. In addition, ACVS noted that performance reports prepared and distributed by the Commission considered ACVS’s fiscal accountability as exemplary and provided ACVS with a designation of “Honor.” Ex. D. at 7-8.

10. Pursuant to written notice, on February 11, 2022, an evidentiary hearing was held before the Commission.

11. Director Thompson testified as to the reasons behind the Recommendation, including that ACVS’s academic outcomes, financial status, and operational conduct were below standard. Specifically, Director Thompson testified as follows:

a. ACVS’s Board has been on notice of the issues forming the basis of the Recommendation and of the possibility of revocation or nonrenewal since 2017.

b. ACVS's comparison group is the Statewide Average Outcome and the Aggregated Average of All Virtual Schools. Based on these comparison groups, ACVS did not meet the minimum "meets standard" mark across all years of the Performance Certificate term. While there was discussion of creating a custom comparison group for ACVS, custom comparison groups must be based on similar demographic makeups. In the case of ACVS, using alternative school demographic data would not provide an apples-to-apples comparison, as ACVS's at-risk students make up 62% of the school's student body and alternative schools' student body must be made up of 100% of at-risk students.

c. While ACVS's financial outcomes have been designated as "Honor," it does not have the minimum 60 days of cash-on-hand to meet standard. In addition, records show that ACVS had made several late payments, which also causes it to not meet standard on financial outcomes.

d. ACVS's outlook on its operational outcomes is most concerning to Commission Staff. In fact, ACVS has failed to meet standard on any of the outcomes in this category. While ACVS was notified of potential ethical and legal violations by Commission Staff and by other agencies, like the Idaho Professional Standards Commission and Canyon County Prosecutor, it failed to promptly address the issues. Further, issues relating to public transparency and reporting requirements have been ongoing.

12. Dr. Sandidge testified as to the allegations contained in the Recommendation, as well as to her role in the circumstances. Specifically, she testified as follows:

a. Dr. Sandidge described the types of students attending ACVS, and some of the challenges those students face regarding academic achievement. ACVS has

extensively revamped its academic programs aimed at assisting students in reaching academic success. Many students attending ACVS are admitted with low scores; this in turn impacts ACVS's performance outcomes. Nevertheless, ACVS has worked hard to help students achieve academically.

b. Dr. Sandidge accepted responsibility for the failures of ACVS's operational outcomes. Further, Dr. Sandidge stated she resigned, and ACVS has a succession plan in place. Dr. Sandidge acknowledged that ACVS had failed to submit reports, etc., but that the school has worked hard to ensure that good leadership is in place. She emphasized that ACVS is just now beginning to move forward, and she is optimistic of its future.

13. Mr. Jones testified to ACVS's financial status. Specifically, he testified that:

a. ACVS has been profitable, and its financial position has been very strong every year, except during 2021. Despite ACVS having to access operating reserve funds during 2021, the school has 90 days of operating revenue. And while the report indicates that ACVS only has 41 days of cash-on-hand, after receivables were deposited, ACVS had a fund balance larger than it has ever had. In sum, ACVS is financially sound. *See Ex. A* at 8.

b. ACVS chose not to claim pandemic relief funds out of an abundance of caution. ACVS decided that it would appear more prudent to not access taxpayer dollars, particularly because ACVS had been able to operate throughout the pandemic.

14. Chairman Lyman testified as to ACVS and its mission, and her role as ACVS Board Chair. Chairman Lyman recognized that the ACVS Board needs training, which will address many of the deficiencies noted in the Recommendation. She also stated that the changes made to the

Board structure will help ACVS succeed, and that she believed that the Board will be able to make the improvement needed to address the Commission's governance and oversight concerns.

15. Ms. Murphy, Ms. Dorrian, and Ms. Vincent testified to their experience as teachers at ACVS, the education students receive at ACVS, and the role ACVS plays in students' lives.

16. Ms. Frent and Ms. Dundas testified to their experience with ACVS as parents and how they feel ACVS has served their children while attending ACVS.

17. During deliberation, the Commission emphasized that it does not take its decision lightly and recognized the impact nonrenewal would have on the teachers and students of ACVS. However, the Commission was deeply concerned about the lack of leadership development, the lack of evidence of leadership's understanding of compliance issues or responding timely to them, the breakdown in reporting functions, the inability to hold leadership accountable, and the inadequate capacity to govern. The Commission found it significant that these issues are identified by the National Charter School Resource Center as indicators that ACVS is in distress. *See Ex. HH.* Finally, the Commission did not see that ACVS Board or leadership had been proactive in fixing these issues.

18. In addition, the Commission noted that the evidence presented at the hearing showed that ACVS did not meet the terms of the Performance Certificate entered in 2017.

19. Therefore, based on the evidence and testimony before it, the Commission voted to not renew ACVS's charter and to require ACVS to cease operations as of June 30, 2022.

CONCLUSIONS OF LAW

20. The Commission has the authority and discretion to nonrenew the charter held by ACVS, pursuant to Idaho Code section 33-5209B(2) and (9); and Rules Governing Public Charter Schools, IDAPA 08.02.04 *et seq.*

21. During deliberations, the Commission emphasized that it does not make its decision lightly and recognized the impact nonrenewal would have on the teachers and students of ACVS. However, the Commission was deeply concerned about the lack of leadership development, the lack of evidence of leadership's understanding of compliance issues or responding timely to them, the breakdown in reporting functions, the inability to hold leadership accountable, and the inadequate capacity to govern. The Commission found it significant that these issues are identified by the National Charter School Resource Center as indicators that ACVS is in distress. *See Ex. HH.* Finally, the Commission did not see that ACVS Board or leadership had been proactive in fixing these issues.

22. In addition, the Commission noted that the evidence presented at the hearing showed that ACVS did not meet the terms of the Performance Certificate entered in 2017.

23. Therefore, based on the evidence and testimony before it, the Commission voted to not renew ACVS's charter and to require ACVS to cease operations as of June 30, 2022.

FINAL ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, IT IS ORDERED that:

1. The charter held by Another Choice Virtual Charter School, Inc. is **NOT renewed**.
2. Another Choice Virtual Charter School, Inc. will cease operations as of June 30, 2022.
3. The Director shall begin closure protocol. In addition, all parties shall adhere to the Commission's Closure Protocol in closing school operations. The Commission's Closure Protocol is contained in Exhibit NN.

IT IS SO ORDERED.

DATED this 10th day of March, 2022.

IDAHO PUBLIC CHARTER SCHOOL
COMMISSION

By: Alan Reed
ALAN REED
Chairman

NOTICE OF APPEAL RIGHTS

This is a final order of the Idaho Public Charter School Commission relating to a charter non-renewal decision. This order may be appealed by the public charter school to the Idaho State Board of Education (“Board”), pursuant to Idaho Code section 33-5209C(8).

The notice of appeal must be in writing and submitted to the Board within 30 days of the date on this order at the following address:

Idaho State Board of Education
Attn: Matt Freeman, Executive Director
650 West State Street, 3rd Floor
Boise, ID 83702
matt.freeman@osbe.idaho.gov

Along with the notice of appeal, the public charter school must submit to the Board one hard copy and one electronic copy of the complete record of all actions taken with respect to the decision to non-renew the charter.

A copy of the notice of appeal must also be submitted to the Idaho Public Charter School Commission at the following address:

Idaho Public Charter School Commission
Attn: Jenn Thompson, Director
304 North 8th St., Suite 242
Boise, ID 83702
jenn.thompson@osbe.idaho.gov

Appeals relating to a charter non-renewal decision are governed by the procedure described in the Rules Governing Public Charter Schools, IDAPA 08.02.04.403, which are available on the internet at: <https://adminrules.idaho.gov/rules/current/08/080204.pdf>.

Additional information relating to submission of an appeal can be found there.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 10, 2022, I caused to be served a true and correct copy of the foregoing by the following method to:

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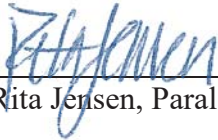
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