



SEN. EMILY ANN CAIN, SENATE CHAIR
REP. CHUCK KRUGER, HOUSE CHAIR

MEMBERS:

SEN. ROGER KATZ
SEN. DAVID C. BURNS
SEN. MARGARET M. CRAVEN
SEN. CHRISTOPHER K. JOHNSON
SEN. EDWARD M. YOUNGBLOOD
REP. PAUL T. DAVIS, SR.
REP. ANDREA M. BOLAND
REP. H. DAVID COTTA
REP. LANCE E. HARVELL
REP. JEFF MCCABE

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
April 2, 2013
Approved April 12, 2013

CALL TO ORDER

The Chair, Sen. Cain, called the Government Oversight Committee to order at 3:05 p.m. in the State House.

ATTENDANCE

Senators: Sen. Cain, Sen. Katz, Sen. Burns, Sen. Johnson, and Sen. Youngblood
Joining the meeting in progress: Sen. Craven

Representatives: Rep. Kruger, Rep. Davis, Rep. Boland, Rep. Cotta, Rep. Harvell, and Rep. McCabe

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Etta Connors, Adm. Secretary, OPEGA

Chair Cain thanked the Committee members for agreeing to attend the meeting to discuss the request from the Chairs of the Education and Cultural Affairs (Education) Committee.

The Committee members welcomed Rep. McCabe to the Committee. Rep. McCabe is temporarily replacing Rep. Peterson on the Committee.

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE MARCH 8, 2013 GOC MEETING

The Meeting Summary of March 8, 2013 was approved as written. (Motion by Rep. Boland, second by Rep. Davis, approved 11-0).

NEW BUSINESS

• Request for OPEGA Review of Charter Schools/Baxter School

Chair Cain said there has been a lot of heat related to Charter School questions. The Education Committee heard several bills regarding Charter Schools at their Committee meeting yesterday. She wanted to be clear that it was not the intention of Chair Kruger or her, nor does she believe it is the intention of the Education Committee Chairs, to add to that heat. She felt the review request is actually trying to take the heat away from the topic. The GOC has been a place where the politics of issues can be set aside and the focus is on the policies, procedures and standards. It was her intention to only have a discussion regarding that type of work.

Sen. Katz recalled the GOC being under pressure, politically speaking, regarding a couple of issues during the 125th Legislature, and the Committee was able to resolve them, ignoring outside influences. He expected the same would continue to be the case. Sen. Burns agreed, but did not think the GOC had to call a special meeting to discuss the Education Committee's request. It could have waited until the GOC's April 12th meeting.

Chair Cain wanted to clarify that the GOC meeting was called because the Education Committee Chairs requested that the issue be reviewed immediately.

Director Ashcroft summarized the documents in the members' notebooks. (Attached to the Meeting Summary is the letter from Sen. Rebecca Millett and Rep. Bruce MacDonald, Chairs of the Education Committee, OPEGA's Summary for the Government Oversight Committee, and a letter from the Maine Charter School Commission.)

The Director said she believed the first two bullets in the Education Committee Chairs' letter are within OPEGA's purview and typical of the kind of work OPEGA does for the GOC. She was less comfortable with the focus in the third bullet because she did not want to leave the impression that OPEGA was going to make any decision, or offer an opinion, that would substitute for the statutory responsibility assigned to the Charter Commission – particularly since the Commission was still in the process of making decisions about Baxter Academy.

Sen. Katz did not think the GOC should make a decision on the review requests until its meeting on April 12th, after the Maine Charter School Commission has its meeting on April 8th. Some other Committee members agreed.

Chair Cain said the decisions concerning Baxter Academy will be dealt with by the Charter Commission at their meeting on April 8th and she also does not believe it is the purview of the GOC to make any decision regarding Baxter Academy. She does think there are legitimate questions raised by the Education Committee Chairs regarding the process and procedures that the Charter Commission is using to approve Baxter Academy, or any other Charter Schools. Chair Cain said the question of whether Baxter Academy goes forward is distracting the GOC from the real questions being asked by the Education Committee – which are about ensuring there is integrity and credibility in the Commission's decisions on Charter Schools. She believes there is a legitimate role for the GOC - to review whether the Commission's processes and procedures are done in a way that everyone has confidence in the outcomes.

Sen. Katz thinks there should be some indication that the system is not working before spending OPEGA resources to review it. The law was passed two years ago and that is not a sufficient amount of time to determine whether the process and procedure is working.

Sen. Burns asked if anyone knew whether the Education Committee has inquired into the subjects contained in the questions that OPEGA was being asked to review. Sen. Johnson, a member of the Education Committee, said to his knowledge the issues have not been discussed by the Education Committee. They first wanted to remove all of the politics from the Charter School subject and understand whether the Charter Commission is prepared to deal with the present situation that had arisen at Baxter Academy with the sudden change in management, turnover of Board members, etc. Rep. Boland noted that past GOCs have investigated topics that had a lot of media coverage for the purpose of having OPEGA gather information and then present their objective and independent results.

Chair Cain asked Director Ashcroft what the impact would be on OPEGA regarding resources and timing if the GOC, at some point, asked OPEGA to review the processes and procedures of the Charter School Commission. Director Ashcroft said there is a lot of information on the Commission's procedures and activities that appears to be readily accessible. Depending on what the GOC wanted for an end product, she estimated it would take about a month to answer the questions talked about at today's meeting. She sees the potential value of an OPEGA review being in understanding how the Charter Commission is implementing the statute and their process so the Legislature and public can have comfort and credibility in their process. It is not because there is something wrong, it is now more about clearing up any doubts about the Commission that have arisen given the recent publicity around Baxter Academy.

Sen. Katz perceived that the urgency in the Education Committee's request was more related to Baxter Academy than the Charter Commission. The previous Rapid Responses OPEGA did were because of concerns that systems were not working and did not see that probable cause with this request.

Chair Kruger agreed, but noted that he has received calls regarding the process for Charter Schools. He does not think the GOC/OPEGA should be looking into the Baxter Academy situation because it is premature. His concern is when, or if, a Charter School fails, what happens to the children and money? That information is probably available, but he does not have it. He noted that when OPEGA reviews issues it brings credibility and a nonpartisan approach that might be helpful to the Charter School questions.

Chair Cain said in her review of the information being released to the public regarding this issue, it appeared there was no dispute over the intent of the Baxter Academy and it is a shame that those questions are being tied to the process questions. It is not the GOC/OPEGA's place to decide whether Baxter Academy is a good school or not, but thinks the intent of the letter from the Education Committee Chairs is that there could be a potential benefit in having OPEGA review the Commission's processes and procedures at this stage instead of looking back at some point in the future and finding the process regarding Charter Schools did not work. Chair Cain thinks there is reason to look at the process so any concerns can be put to rest. The intent of the letter was to try to separate the political question of whether you like Charter Schools or don't from how what has been established in law is being implemented. Sens. Johnson and Craven agreed.

Rep. McCabe thinks it is important to remove any doubt moving forward, and it would also help to clarify and make sure there are no questions about the Charter Schools that have already been approved.

Director Ashcroft asked if there was additional information the GOC would like to have regarding the review request before making a decision.

Chair Cain referred to the Checklist for Considering Topics for an OPEGA Review that was in the GOC members' notebooks and recommended that OPEGA complete that form for the Committee. She asked if there was interest by the GOC in asking Director Ashcroft, for the purposes of the April 12th GOC meeting, to complete the Checklist for the request to review Charter Schools. The other members of the GOC agreed.

The GOC Chairs thanked the members of Committee for attending the meeting.

UNFINISHED BUSINESS

None

REPORT FROM OPEGA DIRECTOR

None

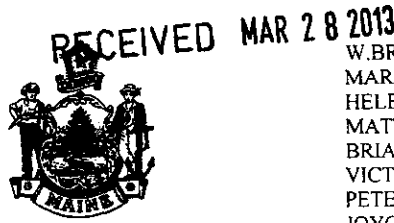
NEXT COMMITTEE MEETING

The next Committee meeting is scheduled for Friday, April 12, 2013 at 10:00 a.m.

ADJOURNMENT

The Government Oversight Committee was adjourned at 4:03 p.m.

REBECCA J. MILLETT, District 7, Chair
 CHRISTOPHER K. JOHNSON, District 20
 BRIAN D. LANGLEY, District 28



W. BRUCE MACDONALD, Boothbay, Chair
 MARY P. NELSON, Falmouth
 HELEN RANKIN, Hiram
 MATTHEA DAUGHTRY, Brunswick
 BRIAN L. HUBBELL, Bar Harbor
 VICTORIA P. KORNFIELD, Bangor
 PETER B. JOHNSON, Greenville
 JOYCE A. MAKER, Calais
 MICHAEL D. MCCLELLAN, Raymond
 MATTHEW G. POULIOT, Augusta
 MADONNA M. SOCTOMAH, Passamaquoddy Tribe

PHILLIP D. MCCARTHY, Legislative Analyst
 JON CLARK, Legislative Analyst
 GREG PIERCE, Committee Clerk

State of Maine
 ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
 COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

March 27, 2013

Honorable Emily Cain, Senate Chair
 Honorable Chuck Kruger, House Chair
 Government Oversight Committee
 Augusta, ME 04333

Cc: Baxter Academy for Technology and Science, Maine Department of
 Education, Maine Charter School Commission

Senator Cain and Representative Kruger,

As Chairs of the Education and Cultural Affairs Committee, we request an immediate review by the Government Oversight Committee of the Baxter Academy for Technology and Science, and related policies and procedures of the Maine Charter School Commission.

Because of changes within the Academy's management, including changes to the Board of Directors, a number of serious concerns have arisen about the school's viability and financial status as well as concerns about the integrity of the application process and subsequent approval granted by the Maine Charter School Commission.

In particular, we request that, at a minimum, the following matters be reviewed and addressed:

- The process and standards by which the Maine State Charter Commission reviewed and granted approval of the Baxter Academy of Technology and Science, including review of the Academy's financial statements;
- An explanation and understanding of the Maine State Charter Commission's role in providing advice and assistance to the Academy during the application process, and whether a standard or consistent approach has been taken with all applicants; and,
- Financial viability of the Baxter Academy for Technology and Science in light of allegations made by its own Board of Directors.

Government Oversight Committee
Page 2
March 27, 2013

The Education and Cultural Affairs Committee has the responsibility to ensure that the Maine State Charter Commission is conducting its business appropriately and according to its adopted rules and procedures under Chapter 2 of Rules for Independent Agencies.

Additionally, we want to ensure that this school administrative unit, Baxter Academy of Technology and Science, under title 20-A, is managing its operations and spending Maine taxpayer dollars appropriately. We believe there is a sense of urgency to understand these matters due to the impending scheduled meeting by the Maine Charter School Commission on April 8, 2013. As part of its mission, the Government Oversight Committee has a history and responsibility to ensure accountability and oversight for the people of Maine.

Included with this letter is a completed OPEGA Review Request Form.

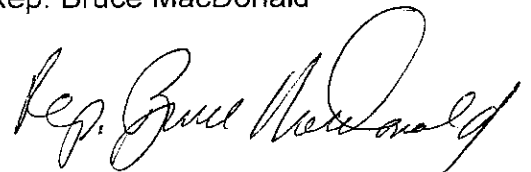
Thank you for your immediate and prompt review of these issues. Please let us know if you have any questions or need additional information.

Sincerely,

Sen. Rebecca Millett



Rep. Bruce MacDonald



Commission and Baxter Academy

OPEGA Summary for the Government Oversight Committee April 2, 2013

Statute and Rules

Legislation passed in 2011 allowed public charter schools in Maine. They are authorized and governed under Title 20-A Chapter 112 Public Charter Schools. Public charter schools are defined in statute as schools parents choose to send their children to that are independent of a school administrative unit, and are established and operated under the terms of a contract between the school's governing board and its authorizer. Public charter schools must provide a program of education for one or more of the following: preschool, prekindergarten and any grade(s) K-12. The program may focus on certain types of students such as special education or at-risk and may include various academic approaches or themes such as natural resources and the environment or science, mathematics and technology.

Pursuant to statute, the Department of Education has established major substantive Rule 05-071 Chapter 140 to govern the authorizing, oversight and operation of public charter schools in Maine. The rule requires public notice of activities of authorizers and charter schools, sets forth student enrollment procedures, establishes standards for the performance of authorizers, clarifies the funding of public charter schools, clarifies the process for petitioning for conversion of a non-charter public school, and provides criteria for determining when a charter school governing board is sufficiently independent of an education service provider with which the board may contract.

Statute sets out what shall be included in requests for proposals for charter schools, applications, and charter contracts. In addition, the Maine Charter School Commission, also pursuant to statute, has adopted Rule 90-668 Chapter 2 – Procedures for Commission Authorization of Public Charter Schools. The rule establishes the:

- process the Commission will use to solicit, accept and review public charter school applications;
- performance indicators that will be used as the performance framework for any approved application; and
- minimum requirements for a charter contract.

Rules adopted by the commission before June 30, 2014 are routine technical rules and after that they are major substantive rules.

The Maine Charter School Commission is established as one of the entities that can authorize public charter schools. Commission members are appointed for 3-year terms by the State Board of Education with input from the Joint Standing Committee on Education and Cultural Affairs. A local school board can also authorize public charter schools within the boundaries of the SAU it governs. Local school boards can form a collaborative to set up a regional public charter school.

Public charter schools are subject to federal, state and local laws such as those relating to special education and required to have independent audits. Statute charges authorizers with responsibility for oversight and evaluation of public charter schools they authorized. Statute also establishes roles and responsibilities for the Department of Education.

The Maine Charter School Commission is comprised of seven members appointed to three-year terms by the State Board of Education with input from the Legislature's Joint Standing Committee on Education and Cultural Affairs. Three Commission members must be members of the State Board of Education and they nominate the four other members who must be approved by a majority vote of the State Board. Members appointed to the Commission must

have diverse professional experience in education, social services, youth training, business startup and administration, accounting and finance, strategic planning and nonprofit governance. The Commission has two staff persons – an Executive Director and an Administrative Assistant. The Executive Director started in October 2012 but volunteered for the Commission prior to being hired. Legal assistance for the Commission is currently provided by the Assistant Attorney General who assists the Department of Education.

The law allows the Charter School Commission to authorize a maximum of 10 charter schools during an initial 10-year transition period. Charter schools authorized by local school boards do not count toward the 10-school limit of the Charter School Commission.

Publicly Accessible Information about Public Charter Schools and the Commission

Information about public charter schools can be found on the Department of Education Charter School website - <http://www.maine.gov/doe/charterschools/index.html>. DOE's website includes the governing statute, questions and answers about charter schools, and information on: how charter schools are authorized, how to create a charter school, charter school founders and operators, and how to enroll in a charter school. The enrollment information includes links to two Commission-approved charter schools - Cornville Regional Charter School and The Maine Academy of Natural Sciences. DOE's website also includes a link to the website for the Maine Charter School Commission.

The Maine Charter School Commission website at <http://www.maine.gov/csc/index.html> has information on the Commission and its activities including:

- Commission members
- Meetings and materials – minutes, agendas
- Request for Proposals issued by the Commission
- Applications received in response to the two RFPs issued to date
- Additional information requested of applicants by the Commission
- Authorized schools
- Laws and rules

Baxter Academy

Baxter Academy of Science and Technology is located on York Street in Portland, Maine and expects to open in September 2013. According to the Baxter Academy website at <http://baxter-academy.org>, the school has received the required number of applications and letters of intent for its charter, has a new 5-year lease on its building, and is reviewing over 200 teacher applications.

Baxter submitted its initial application to the Commission on May 29, 2012 and, after its review, the Commission granted Baxter conditional approval. The Commission specified its conditions in letters to Baxter and required a revised application by September 30, 2012 with revisions addressing those conditions incorporated. Baxter submitted its revised application on September 28, 2012 and the Commission granted approval and began negotiations for the charter contract with the further requirement that Baxter provide proof of a minimum of 150 letters of intent by March 15, 2013.

As discussed in the Commission's March 30, 2013 letter to the Government Oversight Committee, the Commission halted contract negotiations with Baxter when it learned the Baxter's Executive Director had been fired. The Commission requested 12 documents, and responses to Commission questions, from Baxter which were heard and reviewed at a public meeting held Monday, March 25th. The list of requested documents and Commission questions (as taken from the Commission's website) are attached. The Commission has a scheduled meeting for April 8, 2013 to decide if Baxter should receive or be denied a contract.

Public Concerns Raised

On March 22, 2013, the Mayor of the City of Portland formally requested that the Attorney General conduct a review of several matters since recent changes to the Board and management of Baxter Academy had raised serious questions about its viability, as well as concerns about the application process and subsequent approval granted by the Maine Charter School Commission. The Attorney General responded that she understood the Charter Commission was currently reviewing these and other concerns and that she was confident and hopeful the Commission would take the allegations seriously and thoughtfully consider them as it re-examined its approval of the Baxter Academy application.

The Mayor's request to the AG and his concerns were recently covered in the media preceded by recent media coverage related to the Baxter Academy Board's dismissal of its Executive Director in March 2013. Other questions and concerns discussed in the media since Baxter Academy submitted its application to the Charter Commission regard the financial assumptions in Baxter's budget including specific questions about lines of credit, enrollment projections and the availability of federal grants.

A summary of selected media coverage of the Baxter School's application and the Charter Commission's consideration of that application is attached.

Maine Charter School Commission Document and Information Request to Baxter Academy for the Commission's March 25, 2013 Meeting

(as taken from the Commission's website at <http://www.maine.gov/csc/index.html>)

Documents to be delivered to the Commission by the Board of Directors for Baxter Academy by March 18 in advance of the interview scheduled for March 21, 2013:

1. The names of all current members of the Board of Directors for Baxter Academy, along with their resumes, the date of appointment to the board for each member, and their primary role as a board member (either office and/or special area of expertise).
2. The number of current proposed enrollments, based on received letters of intent, along with the grade levels. Include the numbers from each SAU, to the extent that this number is known.
3. A statement on the financial status for the pre-opening period, with documentation on the status of funds either received or committed from donors, other fund-raising, or from commercial lines of credit.
4. A current three-year budget plan.
5. An updated organizational chart showing the key administrative positions and their relationship to the Board.
6. The name and resume for the new Executive Director, if presently known.
7. If known, the names and resumes for the chief financial officer, director of technology, and the director of special education/special services.
8. The status of the building lease agreement, together with a copy of the lease, if signed.
9. A description of the present status of contracts for transportation, food service, custodial services.
10. The names and roles of the current membership of the Advisory Board.
11. A description of the present status of a hiring plan for instructional staff.
12. Information on pending litigation against Baxter Academy of Technology and Science or its Board.

Potential MCSC questions to the Baxter Academy Board of Directors for the March 25, 2013 Interview

1. The Commission has a number of questions concerning Baxter Academy's financial capacity to open its school and to fulfill the requirements of the charter contract that we must enter into before the school may open and receive public tuition subsidy from the per pupil allocation as provided by law.
 - a. What is your current forecasted enrollment, based on a verified list of "intents to enroll" received from parents? Has this list been checked to ensure that none of the caps on enrollment from one or more SAUs has not been exceeded?
 - b. Do you have a revised three year budget plan based on: a) a new estimated enrollment plan; b) a revised staffing plan (including revisions to the administrative structure); and c) updated information on transportation, food service, and other contracted services?

- c. What is the status of the potential new line of credit? Has FAME agreed to serve as a guarantor? Is it able to be drawn upon at present?
 - d. Does this plan have contingencies within it should enrollment drop below either the 150 student forecast as approved in the Commission's vote to grant a charter (date of vote), or in your current best estimate for enrollment numbers?
 - e. What present revenue or other access to funds does the school have on hand to enable it to enter into either facilities lease or other contractual arrangements necessary before school opens? Please specify the amounts available from donations, grants, other fundraising, and from an approved line of bank credit.
2. With regard to the academic program offering: In light of personnel and budgetary changes, what revisions, if any, does the school propose to make to its stated academic program and schedule based on its present enrollment projections?
3. There has been high turnover on the Baxter Academies board of Directors since the first submission of its application and even since the vote to issue a charter. The Commission needs further assurances that the present Board has the capacity necessary to enter a contract and open a school in September 2013. Specifically, we need information and plans from the Board in the following areas:
 - a. Based on updated list of Board members, their resumes and specific areas of expertise that will support Baxter Academy, what areas of needed expertise will you now seek to add? A timeline for this?
 - b. Please give us an indication as to the frequency and number of board meetings you have held since the vote to approve the charter and minutes of formal votes taken at those meetings.
 - c. Can you give us an indication as to your projected number and frequency of planned board meeting going forward throughout this next year?
 - d. How have you posted public notice of Board meetings to date? What is your plan for the future for notifying parents, staff and public about the dates and times for board meetings, and your plans, if any, to involve them in your decision making?
 - e. Please list for us the action steps, with names of the specific Board member assigned, for specific operational tasks and oversight activities that the Board and school intend to make in order that school may open in September and operate throughout the first full year of operation.
4. What is the potential impact of any pending litigation on the ability to go forward as a school? How are the litigation costs to be paid? If the intellectual property is deemed not to belong to the school, how would this effect the ability to go forward as a school? If the litigation was to go for a long period of time, how would that affect the school?

**Summary of Select Media Coverage of Baxter Academy Application
to Maine Charter School Commission (MCSC)
July 2012 – April 1, 2013**

In June and July 2012, the MCSC was considering multiple charter school applications including Baxter Academy in Portland. Baxter Academy is planned as a Science, Technology, Engineering and Math (STEM) school. Opponents, such as the Mayor of Portland and Maine Education Association, raised questions about the financial assumptions in the Baxter Academy budget. Baxter stated it had secured a \$500,000 line of credit from an anonymous benefactor to fund start-up costs and was projecting \$360,000 in the first year from federal U.S. Department of Education grants. The grant amounts were questioned, as were enrollment projections of 160. Baxter presented a new budget for 100 students with a smaller federal grant projection.

The MCSC subcommittee recommended approval, but the full Commission continued to have questions about Baxter's finances. One member suggested a budget based on 80 students might be good. Supporters noted the need for a STEM school and some MCSC members characterized issues raised in opposition as political.

At the same time the Commission was being criticized for the time it was taking to approve charter schools and the small number being approved. Commission members stated they were making decisions based on specific merits, not whether charter schools are good or bad generally.

In November Baxter Academy was approved as Maine's third charter school with a projected opening in September 2013.

In March 2013, the Baxter Academy Board dismissed John Jaques, the Director stating that it saw a pattern of mismanagement and had been considering dismissing Jaques after it learned the school did not have the line of credit it needs for its contract with the State. The Board discovered the line of credit was not in place when it went to sign the building lease.

Jaques denied mismanagement and stated board acted unethically and dismissed him in order to obtain a donation of \$250,000 contingent upon his removal. Jaques said that donation was from the father of a member of the school's advisory board. The Board said a family member was paying Jaques' salary, and that the donation did come from someone who had previously worked with Jaques then pulled his support. The individual who said his organization, the Jebediah Foundation, would not provide any more funding to the academy as long as Jaques was in charge confirmed this.

Jaques cut board off from school email, records, website and facebook page which included applications for positions and enrollment. There was back and forth in the press between current Baxter board members who supported the dismissal and former advisory board members who supported Jaques. A lawsuit was filed by the Board to get materials from Jaques because they were necessary in order to proceed with plans to open school in September.

Board has now signed lease and gained access to teacher applications.

On March 22 it was reported that the Portland Mayor asked Attorney General to investigate allegations of mismanagement, determine whether MCSC conducted an appropriate review of the school's financial picture and whether Commission offered inappropriate advice or assistance during application process.

The MCSC meeting on 3-25-13 to discuss Baxter Academy was covered. Jaques supporters criticized new leadership at school and said that most members of advisory board had resigned and school is

corrupt. Baxter supporters claimed problems are a distraction and that the school is moving forward with a new plan, parents are still supportive, they have 156 student applications and are only about \$100,000 short of \$350,000 fundraising goal.

March 29 reports on GOC to be asked to authorize an inquiry, review school's finances, standards used by MCSC to consider application. The Governor criticized Portland Mayor for requesting an Attorney General investigation. The Mayor reiterated his discomfort with sending hundreds of thousands of school funds to a school whose own directors have raised questions about financial management. The MCSC Chair stated that criticism is from those who don't want charter schools, and the Commission is doing the oversight and vetting as deeply as it can. Baxter board members raised a concern that a long inquiry could jeopardize a September opening.

Maine Charter School Commission

March 30, 2013

Government Oversight Committee
Office of Program Evaluation and Government Accountability
State of Maine Legislature

To the Members of the Government Oversight Committee:

It has come to the attention of the Maine Charter School Commission that you will be holding a hearing on a request from the Joint Standing Committee on Education for OPEGA to conduct a review of Baxter Academy. The review would encompass the Charter School Commission's process, standards and activities in particular as it relates to Baxter Academy as well as the financial viability of Baxter Academy.

Baxter Academy has gone through a rigorous evaluation process to reach its current contract stage. Since the school has not been given final approval for a September opening, there have been absolutely no public funds involved in their project. All of their income to date has been money privately raised and they would receive no public funds until September, 2013, if approved to open.

All potential applicants follow the same procedures with an RFP (which is on line for anyone's review), a three member review team includes a process to review the Educational Plan, Organizational Plan, Governance, Business and Financial Services. There is an open hearing with the entire Commission and the applicant and then a final vote by the Commission which includes each member voting approval or denial and stating the reasons for their decision.

The budget process is extensive and requires strong financial planning and management that is demonstrated through the following:

- (1) A 3-year budget with grade by grade enrollment projections and staffing projections for faculty and staff positions,
- (2) budget and cash flow for the pre-opening period, and
- (3) monthly cash flow for the first year of operation. The review team must be convinced that there is sound planning and a solid financial infrastructure to support the plan.

The evaluation criteria include the following:

1. Budget priorities that are consistent with and support the mission and vision of the school, including the school's educational program, staffing, staff development and facility support.

2. Realistic and detailed revenue and expenditure assumptions, including any fundraising plan and debt assumptions.

3. A strategic plan to meet potential budget and cash flow challenges, particularly for the first year of operation including adequate working capital and available reserves and/or established lines of credit.

4. A demonstrated commitment and plan to maintain the financial viability of the school by identifying those operational areas that are most vulnerable to loss of revenue or excessive cost and a plan to manage those vulnerabilities.

The Financial Management criteria are just as stringent. The applicant must describe the systems and procedures for managing the school's finances and identify the staff position(s) that will be responsible for financial oversight and management. Describe how the school's finances will be managed and who will be responsible for the protection of student and financial records. Describe the relationship of the chief financial officer to the governing board (board of finance committee).

Their responses must include the following:

1. Development and maintenance of a chart of accounts that complies with accounting standards and supports appropriate financial reporting.

2. Provide for monthly and annual financial reports and an annual audit.

3. Description of the school's financial policies.

4. Description of accounting software that connects seamlessly to the MDOE.

5. Description of required student records and their management.

6. Development and dissemination of monthly and annual financial reports.

7. Secure comprehensive insurance policies from a company that specializes in educational institutions.

The evaluation criteria for Financial Management include:

1. A demonstrated and comprehensive understanding of the school's financial management obligations.

2. Evidence that the school is prepared to adhere to generally accepted accounting practices.

3. Evidence or a system of financial controls to ensure that receipts and payments are properly accounted for in a timely manner and that cash is handled properly.

4. Evidence that the software or accounting system to be used is appropriate and its users are fully trained.

5. Evidence that the school has or will have appropriate insurance policies in place.

6. Evidence that the school has adequate policies and processes for tracking enrollment and attendance eligibility, eligibility for free and reduced priced lunch, special education and limited English proficient enrollment.

7. Demonstrated preparation to meet its insurance, annual audit, monthly and annual financial reports and other key financial management obligations.

In the case of Baxter Academy, I headed the review team, along with Dr. Lynda Doyle and Jim Banks. Baxter was given conditional approval and was required to review their budget because it was felt they could not sustain it as presented. We also wanted to see a more formal plan for fundraising and to review their upper management staff because it appeared top heavy. We further requested their figures be reworked for grants because the Federal Government was not issuing start up grants for the year and Baxter was requesting \$175,000 for three consecutive years.

Baxter returned with these adjustments made and a proposal for only 100 students in the first year if they could not reach the 160. On November 16, 2012, Baxter was approved with a further requirement that by March 15st they would provide proof of a minimum of 150 letters of intent. In the meantime, the Commission learned the Baxter board had fired the Executive Director and we immediately stopped contract negotiations. A list of (12) documents was requested from Baxter, accompanied with a number of related questions. An open meeting was held on Monday, March 25, to review the requested information and responses to Commission questions to determine if their application should continue. The Commission has scheduled a meeting for April 8th to decide if Baxter should receive or be denied a contract.

The Commission felt it would be helpful for the Government Oversight Committee to be provided with this information so they would be able to determine if this project merited being handed over to OPEGA.

On Baxter's governing board is an accountant who is a CPA with a large Portland accounting firm. He has vast experience with non-profits, charter schools and accounting work for OPEGA. He would be available to answer any questions you may have.

The Commission is always available to answer any and all questions. Our meetings are always open to the public. As we have stated many times before, we understand and take our fiduciary responsibility to the citizens of Maine very seriously.

Please contact myself or our Executive Director, Robert Kautz if you have any questions.

Sincerely,

Jana Lapoint

Charter Commission Chair
Home Phone: 207-781-7472