



# **The Commonwealth of Massachusetts**

## **Department of Education**

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To: Members of the Board of Education  
From: David P. Driscoll, Commissioner of Education  
Date: September 18, 2006  
Subject: Update on Robert M. Hughes Academy Charter Public School

Robert M. Hughes Academy Charter Public School received its first charter renewal in February of 2004. The renewal was granted with five conditions based on the school's performance: one for academic concerns and four regarding continuing issues relating to the governance and financial management of the school. At that time, the Department also referred its concerns about the school to the Office of the State Auditor and the State Ethics Commission. The Office of the State Auditor began a review at that time and issued its report in August of 2005. No further information has been received from the State Ethics Commission. At this time, I do not recommend any further conditions for the school based on the significant shift that has occurred in its leadership and on its academic success.

The school, located in Springfield, opened in September of 1999 and currently serves 180 students in kindergarten through grade 8. During the 2005-2006 school year, the student population was 77.5 percent African American, 16.5 percent Hispanic, and 2.2 percent White. Sixty-six percent of students were low income and 7.1 percent received special education services.

*Condition 1: The Robert M. Hughes Academy Charter School will make Adequate Yearly Progress in the aggregate as determined by the Department of Education based upon results of the spring 2004 and spring 2005 administration of the Massachusetts Comprehensive Assessment System.*

This condition has been met. Robert M. Hughes has made Adequate Yearly Progress in the aggregate and for all subgroups for the years 2003, 2004, and 2005.

*Condition 2. Members of the Board of Trustees who also served as members of the board of directors, officers, executives, advisors, consultants, and in any other capacity for the D. Edward Wells Federal Credit Union must immediately request an opinion from the State Ethics Commission regarding their failure to disclose this interest on their financial disclosure forms and their participation in any decisions made regarding deposits of the funds of the School with the D. Edward Wells Federal Credit Union, including deposits made in excess of the "maximum insured sum" as noted in the school's auditor's report for FY03 on page 14 in number 14 of the Notes to Financial Statements. If the State Ethics Commission determines that any members of the Board of Trustees violated either the Commonwealth's conflict of interest or financial disclosure laws, those members must immediately resign from the Board of Trustees.*

This condition was not met. In 2002, Robert M. Hughes Charter Public School purchased a \$150,000 certificate of deposit from the D. Edward Wells Federal Credit Union. At the time of purchase, three members of the Hughes Board of Trustees were also on the board of the credit union and in one case, served as both a board member and as Chief Executive Officer. The condition required those board members to request an opinion from the Massachusetts State Ethics Commission, which provides written advisory opinions in two ways: by reviewing questions regarding prospective conduct and by reviewing past conduct, if individuals self-report. Attorney Mary-Ann Lane, who serves on the school's Board and as outside litigation attorney for the credit union, self-reported to the Ethics Commission and received an opinion that states "the staff has determined that you have not violated the conflict of interest law and that this matter does not warrant further review or presentation to the Commission for any official action at this time." Two additional school trustees, Carol Arango and Norma Baker, did not self-report to the Ethics Commission but instead sought a legal opinion from the firm of Holland & Knight LLP, which determined that a conflict did not exist. This opinion does not meet the requirement of the condition, as it was not rendered by the State Ethics Commission. Additionally, the State Auditor's report, dated August 3, 2005, states that "RMH's Board of Trustees should ensure that the board's Chairperson and Treasurer report this transaction to the State Ethics Commission." The State Ethics Commission has been notified of this area of concern but no action has been reported to date. Carol Arango has since resigned from the Board of Trustees.

*Condition 3. The Board of Trustees must hire a consultant by April 15, 2004, with experience working with boards of trustees of charter schools regarding board practice and governance. Such consultant must be acceptable to the Department of Education and must not have any personal relationships with any members of the Board of Trustees. The consultant shall perform an evaluation of the Board of Trustees' performance of its governance and oversight duties and submit a written report to the Department of Education by June 30, 2004. The Board of Trustees shall submit an action plan based upon this report by September 13, 2004 to the Department of Education for approval and for use in the ongoing evaluation of the school.*

This condition has been met. The school engaged a consulting team to lead the Board of Trustees on a full-day retreat in June 2004, and to undertake a full-scale governance review. The consultants submitted a report documenting their finding and a subsequent action plan, which have been accepted by the Department. The school has made progress in implementing the recommendations.

*Condition 4. The Board of Trustees must comply with, or revise in a manner acceptable to the Department of Education, the bylaws for the School regarding terms of members by June 30, 2004.*

Completion of this condition is still in progress. The school has proposed term limits for trustees of no more than four, consecutive, three-year terms. The Department believes that term limits shorter than twelve years would be more appropriate. The matter remains under discussion. Other minor revisions are also in process.

*Condition 5. Members of the Board of Trustees must cooperate with the Department of Education and the Office of the State Auditor to fully address the questions and issues raised by the Department.*

This condition was not met. The Office of the State Auditor completed its work and released a report on Robert M. Hughes on August 3, 2005. This report states that “[d]uring our audit engagement, RMH’s management conducted various activities that limited our ability to perform our audit testing. . . . during the conduct of our audit fieldwork, RMH did not make all of its records available to us at reasonable times or in many cases did not provide the documents we requested. . . . At the request of RMH’s Chairperson, we provided her with a complete list of documents that the audit staff had requested but was still waiting to receive . . . . However, as of our fieldwork completion date, RMH’s Chairperson neither provided the required documents nor offered the audit staff an explanation for this failure . . . .” The Board of Robert M. Hughes, and in particular, its Chairperson, did not cooperate with the State Auditor, as required in the condition.

The report from the Office of the State Auditor made findings in nine areas, summarized below. Additional information has been received from the school or through the school’s required annual independent audit and has been noted below each finding.

“1. Financial management problems have resulted in significant cash-flow problems and questions about RMH’s current and long-term financial health.”

The school’s FY05 independent audit indicates that the school’s financial position has improved since the State Auditor’s report was released. While the school’s available cash balance continued to decline as of the close of FY05, the line of credit balance had returned to zero. The school moved from an operating deficit of \$164,934 in FY04 to a surplus of \$205,883 in FY05, increasing net assets at year end from \$516,036 in FY04 to \$556,985 in FY05. The school’s net assets available for use increased by \$192,341 for FY05. The school’s FY06 audit is due on January 1, 2007.

“2. RMH made unallowable and questionable lease payments totaling \$279,055 to a related party that did not satisfactorily complete renovations necessary for RMH to obtain a certificate of occupancy.”

The State Auditor’s report and the school’s independent audit present two differing and opposing analyses of the rent payments, due at least in part to the lack of documentation provided to the Office of the State Auditor by the Board of the School. The original lease relied on a formula to calculate payments using outstanding debt owed by the building’s owner, the non-profit School Street Properties Inc., as a basis. Several members of the Hughes Board of Trustees were also directors of School Street Properties. The Department requested and has received a copy of a restated lease that designates an amount per square foot, a monthly total amount due, and an annual total that the school will now pay, rather than the complex formula used in the past. This should alleviate further confusion. Renovations have now been completed and the school has provided the Department with a copy of a Certificate for Occupancy from the city of Springfield, bringing the school into compliance with this requirement.

“3. RMH transferred \$125,000 to a related party without maintaining documentation to support the purpose, authorization, and use of these state funds.”

In September 2005, several members of the school’s Board of Trustees told Department staff that these funds were used for renovations to the facility and acknowledged that appropriate records had not been maintained. The school was asked to provide a written statement to this effect and has provided this document. In the Schedule of Findings and Questioned Costs section of the school’s FY05 audit, the school’s auditor states that the school had provided the State Auditor with cancelled checks written to the escrow account of a bank for the amount in question, but could not provide additional details about the expenditures, including contractor agreements, requests for proposals, and billing invoices. The school’s audit states that “[T]he [Board of] Trustees are relying on their attorney to respond to the state auditors.”

“4. RMH’s chairperson and treasurer may have violated the state’s conflict of interest law in the investment of \$150,000 of RMH’s funds.”

As noted above, the two members of the Board in question did not self- report to the State Ethics Commission.

“5. RMH purchased computer equipment totaling \$116,357 without the benefit of competitive bid procedures.”

“6. RMH awarded questionable consultant contracts totaling as much as \$240,187.”

“7. Inadequate internal controls over administrative, accounting, and operational functions.”

“8. RMH’s Board of Trustees needs to improve oversight of RMH’s financial operations.”

In addition to these findings by the State Auditor, the school’s independent audit for FY05 contains a finding of material weakness in the school’s internal control over financial reporting in the areas of control environment, control activities, and monitoring. The audit states that “[m]any of these findings have continued from previous years and others are new.”

“9. RMH did not transfer withholdings to the Massachusetts Teachers’ Retirement System on a timely basis, resulting in a loss of potential interest income to the retirement system and in the unauthorized use of employee contributions.”

While the school attributes this finding to the lack of expertise and capacity of a temporary business manager, the school was also in a cash deficit during this period and made the MTRS payment just prior to receiving a tuition payment from the state.

In summary, the State Auditor’s report and the school’s independent audit report for FY05 both documented significant weaknesses in the school’s internal controls over financial transactions. The school has acknowledged these weaknesses and has contracted with a business agency to oversee day-to-day financial operations, to write a policies and procedures manual, and to provide training to staff members and trustees. Currently, a part-time temporary business manager is handling day-to-day fiscal requirements, overseen by the business agency. The hiring of a full-time business manager has been approved by the Board of Trustees and it is anticipated that the Board will begin the hiring process in October. In addition, the school’s independent auditors will be updating their findings as part of the FY06 audit process, currently underway.

Additionally, the Board of Trustees experienced significant change in the 2005/06 school year. In addition to the resignation of Board Chair, Carol Arango in July of 2006, six new members have joined, including the new chair, Theron Simpson, Jr. Doug Greer, the school leader since shortly after renewal in 2004, resigned at the end of the 2006 school year and is now the school leader at New Leadership Horace Mann Charter School. The school's instructional leader and dean of students are serving as co-leaders while the school undergoes a search process. The Charter School Office will return to the school for a site visit this year and will follow-up again on the remaining requirements of the conditions.