

OVERCOMING OBSTACLES TO PROVIDE A BRAVE, LGBTQ-AFFIRMING LEARNING ENVIRONMENT: THE MAGIC CITY ACCEPTANCE ACADEMY

Incidents of bullying and harassment due to identity, identity expression, or otherness are well-documented in the literature. Students who identify as LGBTQ, LGBTQ-allied, or disenfranchised experience such intimidation in public schools in the United States at a much higher rate than do students who identify as heteronormative or neurotypical. In this qualitative case study, we describe the process of one group of highly committed individuals to develop, propose, and eventually establish one of the first LGBTQ-affirming charter schools in the United States. Data were collected through observations, document review, and individual interviews with key leaders and stakeholders to describe the process of opening the Magic City Acceptance Academy (MCAA) near Birmingham, Alabama. This study documents the successes and challenges of gaining approval for the charter school and opening the doors to this highly unique public-school setting in the fall of 2021. Now in its second year of operation, the MCAA is growing in enrollment, and students are clearly experiencing success, both socially and academically, in this student-centered, caring, and brave school setting.

Introduction

In August 2021, the Magic City Acceptance Academy (MCAA) opened as a charter school in Alabama to serve students in grades 6 through 12. Located near Birmingham, MCAA's (2023) mission is to "empower all learners to embrace education, achieve individual success, and take ownership of their future in a brave, LGBTQ-affirming [emphasis added] learning environment" (para. 1). As such, it is one of the first charter schools of its kind to explicitly address the social, emotional, and academic needs of LGBTQ and other disenfranchised students.

The purpose of this case study is to explore and document the experiences of key stakeholder groups regarding the inception, development, application, approval, and eventual opening of MCAA as a charter school. We begin with a brief overview of charter schools in the United States and in Alabama. We continue with a discussion of the rationale for MCAA and steps related to the application and appeals processes. We conclude with a summary of actions taken to prepare MCAA for opening in fall 2021.

Charter Schools

Charter schools are tuition-free schools of choice that are publicly funded but independently run (Prothero, 2018). The concept of charter schools originated in the United States in the 1970s based on the idea that groups of teachers could set up contracts or charters with their local school boards to discover new approaches and ideas in the field of education (Public Charter Schools Insider, 2022). Charter schools are frequently centered around a theme such as college preparation, STEM (Science, Technology, Engineering, and Mathematics), or service-learning and recruit students based specifically on this area of interest.

By 2019, 45 states and the District of Columbia had passed public charter school legislation permitting charter schools to be governed by a group or organization under a legislative contract (National Center for Educational Statistics, 2022). Under the terms of the charter, school leaders have the autonomy to make choices about curriculum, personnel, and budgets without adhering to certain state regulations. In exchange for this high level of flexibility, charter schools are subject to greater accountability by an authorizer who can close a school that does not meet the terms of its contract (Prothero, 2018).

Charter Schools in Alabama

Charter schools in Alabama are a relatively new phenomenon (Zohn, 2019). After decades of opposition, Alabama's Legislature passed the School Choice and Student Opportunity Act, also known as the Charter School Bill or SB45, in March 2015 (School Choice and Opportunity Act [SB45], 2015). Proponents of SB45 argued that it would give students in Alabama another educational choice that would improve student learning (SB45) while opponents suggested that public charter schools would further segregate the existing public-school infrastructure and place greater strain on existing financial resources (Cason, 2019).

Senate Bill 45 was introduced in 1999 and revisited in 2003 and 2009. However, it was not given serious attention until 2012 when it was reintroduced by bill sponsor, Senator Pro Tempore, Del Marsh (SB45, 2015). According to SB45, charter schools may be either newly formed "start-ups" or "conversion" of an existing public school to a charter school (Southern Poverty Law Center, 2020, para. 7).

As stipulated in Section 2a of SB45, all public charter schools in the state are public schools and, therefore, part of the public education system in the state. Alabama's charter school policy provides two options for authorization: a local school district with the approval of the Alabama Department of Education (ALSDE) or the Alabama Public Charter School Commission ("the Commission") (Alabama State Department of Education [SB45], 2015). The Commission was established under Section 6c of

SB45 (2015) to authorize and deny charter schools in Alabama.

The application process for local school districts to become a charter school authorizer in Alabama opened in fall 2015. To date, only six of 136 public school districts in Alabama have applied and been approved to become charter school authorizers by the Alabama State Department of Education (ALSDE, 2021); the Birmingham Board of Education is one of these six charter school authorizers.

Conceptual Framework

Our team used a multi-dimensional ethical educational leadership conceptual framework (Shapiro & Stefkovich, 2016; Starratt, 1994) to guide reflection and analysis of the data collected and reported in this article. In 1994, Starratt developed a multi-dimensional conceptual framework for educators in establishing an ethical school. Starratt's framework consists of three ethics of school leadership which Starratt encouraged school leaders to apply in their daily practice of decision-making and leadership in schools. Starratt explained that the multi-dimensional ethical framework comprises the ethic of justice, the ethic of critique, and the ethic of care. The application of the ethic of justice encourages ethical educational leaders to consider whether a law, policy, or individual right is involved in an ethically charged situation. The ethic of critique encourages ethical leaders to consider who may have written that law or policy, who benefits from its application, and whose voice(s) may be silenced or left out. It is the ethic of care, however, that our current study leans on most heavily. The ethic of care, according to Starratt (1994), "requires fidelity to persons, a willingness to acknowledge their right to be who they are, an openness to encountering them in their authentic individuality, [and] a loyalty to the relationship" (p. 52).

Methodology

Our team conducted a multifaceted phenomenological case study of MCAA. We drew content for this case study from non-participant observations, document analysis, and key informant stakeholder interviews (N=7) with individuals who were integral to the design, implementation, and operations of MCAA. All interviews were recorded either in-person or via Zoom and transcribed by a third-party vendor. Participants discussed the processes of locating, securing, and preparing facilities for the school and challenges and successes leading up to the first year of operation. A copy of the interview protocol can be found in supplemental content.

The research team discussed observational data and documents and reviewed transcribed notes line-by-line to explore the topic from multiple perspectives. We used multiple methods of verification to trustworthiness of the data, including: (a) peer debriefing, (b) member checking,

and (c) thick, rich description (Yin, 2011). All participants provided informed consent prior to engaging in interviews. This study was approved by the University of Alabama at Birmingham Institutional Review Board: IRB-300008486, by the Magic City Research Institute, and by MCAA administration.

Magic City Acceptance Academy

The MCAA charter school application was developed by Birmingham AIDS Outreach (BAO), a 501(c)3 nonprofit founded in 1985 to provide services to persons living with HIV. The application was heavily influenced by feedback from staff at the Magic City Acceptance Center (MCAC), an affirming LGBTQ youth center established by BAO in 2014 in response to the growing trend of HIV cases impacting youth under 25 years of age.

Rationale

As early as 2014, MCAC staff members reported a large percentage of youth failing in school, dropping out of school, or claiming to be home-schooled but not actively receiving educational support. Youth also reported excessive bullying and a lack of support from school administrators and teachers, which students often attributed to queer or other marginalized identities. Dr. Karen Musgrove, CEO of BAO and MCAA stated, "We had students coming in [to the MCAC] who were beat up mentally, emotionally, [and] physically from school." Dr. Mike Wilson, inaugural principal and superintendent of MCAA added:

The kids would literally come in the afternoon [to MCAC] and have to decompress for 30, 45 minutes. There were kids that hadn't been to the bathroom all day, kids that would carry around all their books because when it was locker time, that's one of the key places kids get bullied, pushed up against the locker, called names, and the stress within all of that... just adds to the anxiety.

BAO and MCAA Board Member, Dr. Tracee Synco, confirmed Wilson's account and added that some transgender students were further stigmatized by being directed to only use the bathroom in the teacher's lounge. Synco also noted that some students were not eating during the day:

[t]hey were all coming in, and they're starving because they wouldn't eat when they were at school during the day. Because apparently lunchrooms in some schools, that's a good spot where they might have gotten bullied if they were identified as LGBTQ or they were allies, they were with friends who are LGBTQ. So, they might not eat all day.

According to Dr. Tommy Bice, MCAA Board Member and former Alabama Superintendent of Education, the origin of MCAA was based on the work of multiple groups that recognized traditional public schools were not meeting the needs of various students and families for a variety of reasons. Bice stated:

It's [MCAA] not just for children who identify as LGBTQ, but for others that feel comfortable in that affirming environment. It [the need] was easily actualized because they had data to show how many kids weren't in school and were needing some sort of alternative educational opportunity.

Ms. Amanda Keller, Director of MCAC, said, "We knew this was a crisis. We knew that education should be a basic right for everyone. That includes just being able to be affirmed and supported and showing up wholly and authentically." Keller identified multiple challenges students faced in the schools including "blatant homophobia, blatant transphobia, any kind of lack of response to students being bigoted and biased and bullying." She intimated administrators and teachers were largely responsible for creating hostile environments for students by not intervening when they saw or heard biased language or harassment, "[w]hen an adult who's supposed to create a safe space doesn't do that, it causes so much harm."

Keller acknowledged that some public-school educators were "doing the work of holding space for youth," but suggested that there were typically few spaces for students to feel safe in the entire school. Arguably, Keller offered the most compelling rationale for the creation of the MCAA:

[w]e have attended more funerals [due to suicide] than I would like to say for young people we've lost because they were not supported in any number of their social environments. That's caused a lot of despair for a lot of young people.

Student experiences recounted by MCAA stakeholders are not unique nor limited to Alabama. Incidents of bullying and harassment due to identity or identity expression are well-documented in the research literature (Earnshaw et al., 2017; Eisenberg et al., 2017) and further supported by national and state statistics collected by the 2019 Gay, Lesbian, and Straight Education Network (GLSEN) National School Climate Survey regarding bullying, harassment, and physical violence (Kosciw et al., 2020). Survey authors reported national statistics of issues reflective of those experienced by LGBTQ youth in Alabama such as (a) a lack of intervening by school faculty and staff on behalf of LGBTQ youth in the face of harassment and assault; (b) concerns about school safety in both public and gender-segregated spaces (e.g., locker rooms, bathrooms, cafeteria); and (c) challenges to psychological well-being (i.e., self-esteem, depression).

MCAA Charter School Application

In response to growing concerns about student safety and wellness, BAO leadership began exploring educational options for LGBTQ and other disenfranchised students in 2019. Leaders considered the possibilities of private school or online curriculum but determined these options were either cost prohibitive or failed to reach their target demographics. Therefore, BAO pursued the charter school option since legislation had recently been passed in Alabama. Musgrove stated, "the charter school became kind of the mechanism for what we wanted to do, which was to open up a free public school." The BAO Board of Directors approved a plan to apply for charter school status in March 2019.

BAO identified Birmingham as its preferred location for MCAA since BAO and its affiliated partners are co-located in the downtown area. BAO reasoned that this site would place MCAA students close to wrap around health and wellness services including MCAC; the Magic City Wellness Center (MCWC), which provides primary care and services for LGBTQ individuals and their allies; and the Magic City Legal Center, which specializes in pro-bono legal services for the LGBTQ+ community (MCAA, 2023). As previously noted, charter school applicants must have an authorizer to oversee its charter. Since the Birmingham Board of Education is the authorizer for charter schools in Birmingham, BAO submitted its application to the local school district in November 2019.

Birmingham Board of Education

During a special-called meeting in January 2020, Birmingham's review committee recommended board members deny MCAA's application due to a lack of detail regarding its educational program design, operations plan, and financial plan. The board accepted the review committee's request for denial with a 5-3 vote (Dunigan, 2020). Wilson noted that he and his collaborators had spent nearly a year addressing the Commission's extensive application prior to submitting it to the Birmingham Board of Education. Moreover, MCAA had met all the necessary requirements to qualify as a start-up charter school including 501(c)3 status, acquisition of a facility, and committed financial resources, including a \$1.5 million start up grant from New Schools for Alabama.

MCAA stakeholders suggested the denial of their application was based on anti-LGBTQ sentiment as well as a scarcity mindset by members of the Birmingham Board of Education. To date, the Birmingham Board of Education has yet to approve a charter school application. MCAA building architect, Mr. Scott Burnett, said, "I watched the Birmingham City School Board meeting in disgust...it almost seemed like they [Birmingham Board of Education] became an authorizer so they could shut down charter schools." Mr. Chris Fisher, past BAO Board Chair and current

MCAA Board Member, added:

We had funding, we had location, we had ticked all the boxes on the application. [We] walked in with a plan in place, with an award-winning principal in tow and were rejected. Not because of the value or validity of our application but because of the mission of what we wanted to do.

Appeal and Reapplication

In May 2020, MCAA appealed the decision by the Birmingham Board of Education to deny its application to the Alabama Public Charter School Commission. Since the first wave of the COVID-19 pandemic had just reached Alabama in March 2020, the appeal was heard by the Commission via Zoom. The Commission rejected MCAA's appeal with a final vote of 2 "Yes", 6 "No", 1 "Abstention", and 2 "Absent". According to Musgrove, the Commission counted abstention and absentee votes as "No" votes, although Commission rules were ambiguous regarding this specific rule. Musgrove expressed a sense of utter shock and dismay by this decision:

I was like, "Oh my God, they just denied us." And so my whole dream of going into the city of Birmingham, at that moment, crashed. There was no way we could build the school in Birmingham. They shut that down.

Rather than repeat the process with a new application to Birmingham, MCAA leaders accepted the advice of others to abandon their preferred location and find a site that did not have a local school board authorizer. In September 2020, after months of review and revision, MCAA submitted a new charter school application directly to the Commission for a site located in Homewood, Alabama.

MCAA selected the city of Homewood due to its proximity to Birmingham as well as the fact that Homewood City Schools had not elected to be a charter school authorizer. Wilson noted that MCAA completely revamped the application by placing greater emphasis on their intentions to implement trauma-informed curriculum and restorative justice disciplinary principles.

The Commission reviewed MCAA's new application in September 2020 along with applications from three other proposed charter schools. All applications were reviewed by an outside evaluator, and MCAA received a score above 90% based on the Commission's rubric. Because of this score as well as committed financial resources, Wilson said he felt sure the application would be approved. Moreover, one of the other three applicants scored 40 points lower than MCAA without adequate funding yet was approved by the Commission. Once again, however, MCAA was denied based on "No" votes and "Abstentions" which were also counted

as "No" votes.

Several Commissioners argued that MCAA was attempting to establish an identity school for LGBTQ youth, or a gay school, despite statements in MCAA's application describing the school as learning community for all students. Wilson reiterated, "We're a school that is for any student that feels marginalized in their current educational setting for whatever reason, and may or may not have been bullied, experienced significant trauma. They're just not comfortable." According to Fisher, the outgoing Commission Chair criticized the Commission's decision saying, "Y'all have not done what is right." Fisher continued, "He [outgoing Commission Chair] proceeded to basically call out the people on the Commission who were using their religious beliefs and their bigotry and ignorance to prevent us from being able to move forward."

After the Commission denial, BAO attorneys reviewed transcripts of the Commission's first appeal as well as the reapplication hearing and submitted a four-page letter to the Commission alleging discrimination on the part of the Commissioner. The letter requested a review of the appeal denial, and the Commission voted to hear statements. On November 4, 2020, after statements were heard, the Commission went into executive session and agreed to take a revote of the appeal. The Commission approved MCAA's appeal with a final vote of 7 "Yes", 1 "No", and 1 "Abstention." By early December 2020, BAO signed a charter school contract with the Commission to launch MCAA in fall 2021.

Actions Taken to Open MCAA

According to Wilson, once the charter school application was finally approved, MCAA leadership essentially spent nine months building a new school from the ground up. In response to school experts who suggested MCAA should take two years to open, Musgrove stated:

"No way." And now I completely understand why it takes them two plus years to do it. But I think that's the great thing about this organization [BAO]... We do things fast, and we make smart decisions. We don't have a lot of red tape to go through. And so I knew we could do it. It was just really, really difficult. And I did not want to take two years. I just thought that was ridiculous.

In researching potential sites, the team identified and acquired an office building in Homewood that had been vacant for more than 20 years. MCAA leaders secured all building permits by February 2021, and the developer gutted the entire building. Musgrove stated, "I think they [developer] basically had three shifts that were working on that building and never stopped." In addition to the tight timeframe, she noted that building supplies (i.e., steel, wood) were in short supply due to the COVID-19 pandemic.

Logistics

Concurrent with building renovations, the MCAA team began hiring administrative personnel including the Chief Operating Officer, Director of Operations, and Registrar. As a charter school, MCAA serves as its own school district; therefore, administrators are responsible for all logistics of a central office including accounts payable, payroll, student recruitment, professional development, and compliance. Musgrove stated, “Logistics. Logistics was a nightmare...it was just this mess...And so everything was just made harder because of COVID.”

Musgrove further noted that the individuals they brought on before the beginning of the school year were hired as BAO employees because the funds committed to MCAA were not yet available. She stated:

[t]his is the first charter school that we can find that has ever started from another nonprofit...I don't know how they [other charter schools] do it. Because without the infrastructure of BAO, that's what allowed us to move so quickly and to make big decisions...the infrastructure of BAO is still sitting right next to the school and supporting it as it moves along.

By design, MCAA is a 501(c)3 separate from BAO, but the organizations are interconnected. Musgrove is the CEO of BAO as well as MCAA, and the Board President of BAO serves on the MCAA Board of Directors. Additionally, BAO maintains a significant financial commitment to the school to support operations and leases the building from the developer. Musgrove stated, “the school is the most expensive endeavor that I have ever been a part of.”

Student Recruitment

According to Musgrove, MCAA spent approximately \$15,000 between November 2020 and August 2021 to recruit students, “We did print ads, yard signs, lots of public ‘Who are we? What is our mission? What are we trying to do?’” Others noted that MCAA also did public service announcements, billboards, word-of-mouth, presentations to counseling associations, and networking events. Bice suggested that one of the challenges of marketing MCAA was reaching students and families for whom school was not a positive experience. Moreover, MCAA was promoting a charter-based theme of inclusion and acceptance, which is a far more complex concept than STEM education, for example.

Epilogue

For academic year 2021-2022, MCAA had between 204 students at the beginning of the school and 240 students by January 2022. The target goal for enrollment in year one was 250 students. Additionally, MCAA

graduated 13 seniors. Other successes included a schoolwide musical in the spring as well as prom, which Wilson described as a “beautiful, beautiful night...and it was so peaceful and kids just got to be themselves, whether they were straight, LGBTQ, or anything else.”

Despite these achievements, there was one seminal event that tested the resolve of MCAA stakeholders. In spring 2022, MCAA was the target of negative political ads in which an Alabama candidate for governor, Tim James, called MCAA the “first transgender public school in the South chartered in Alabama with millions of your tax dollars.” The candidate further stated, “My heart is for the protection of our children, and this needs to be shut down. This isn't education. It is exploitation, and it needs to stop” (Cann, 2022). Furthermore, television ads featured unauthorized images and faces of staff and students. After the advertisement was released, MCAA immediately increased security to protect students and collaborated with MCWC to provide counseling services to those who needed it.

In a public statement, Wilson expressed his belief that ads like this “fuel hatred in the community and could, in some cases, inspire violence” (Hedgepeth, 2022). According to Synco, school administrators were concerned about MCAA students who had post-traumatic stress disorder (PTSD) from past traumas. However, support for MCAA and against the hatred and bigotry was widespread:

School administrators started getting emails from Hong Kong and Australia, and New Zealand and all these words of support. So, they [school administrators] started just printing them out on pastel paper and sticking them [messages of support] on the wall so that students would see it.

Ironically, media attention to the controversy in Alabama raised the school's profile and generated unsolicited financial contributions, “Since the Tim James attacks, we've raised \$15,000 on our GoFundMe account. And we've also received checks from all over the country.” Wilson observed that one of the results of the negative attack ads was to bring the community closer together, “By the end of the year, after going through all this [political ads controversy], we felt much more like a tight-knit community of students, teachers, and families that were on the same mission, who were determined to stay the course.”

For the 2022-2023 academic year, MCAA set an admission goal of 350 students; they admitted 381. According to Wilson, the total capacity of the building is between 400 and 450 students. At the time of this writing, BAO and MCAA were in negotiations to acquire and renovate an adjacent building to accommodate a growing student population. When asked about MCAA's greatest success, Bice described the students who attend MCAA, “They're smiling, they're happy, they're learning. They've developed peer groups. It [MCAA] has fulfilled its mission. It's a very af-

firmative environment because they're happy in they're learning.”

References

- Alabama State Department of Education. (2021). *Charter schools*. <https://www.alabamaachievers.org/charter-schools/>
- Caan, B. (2022, April 5). *Tim James campaign launches new radio ads criticizing Magic City Acceptance Academy*. <https://altoday.com/archives/44836-tim-james-campaign-launches-new-radio-ads-criticizing-magic-city-acceptance-academy> Accessed December 25, 2022
- Cason, M. (2019, January 13). *Charter schools coming to Alabama: Here's more about what that means*. https://www.al.com/news/2015/03/charter_schools_coming_to_alab.html
- Dunigan, J. S. (2020, January 29). *Birmingham board denies state's first LGBTQ charter school application*. <https://www.al.com/news/2020/01/birmingham-board-denies-states-first-lgbtq-charter-school-application.html>
- Earnshaw, V. A., Elliott, M. N., Reisner, S. L., Mrug, S., Windle, M., Emery, S. T., Peskin, M. F., & Schuter, M. A. (2017). Peer victimization, depressive symptoms, and substance use: A longitudinal analysis. *Pediatrics*, *139*(6), e20163426.
- Eisenberg, M. E., Gower, A. L., McMorris, B. J., Rider, G. N., Shea, G., & Coleman, E. (2017). Risk and protective factors in the lives of transgender/gender nonconforming adolescents. *Journal of Adolescent Health*, *61*(4), 521-526.
- Hedgpeeth, L. (2022, April 14). *'Disgusting:' Children called slurs, security increased following political ad attacking Birmingham area school*. <https://www.cbs42.com/news/local/disgusting-children-called-slurs-security-increased-following-political-ad-attacking-birmingham-area-school/> Accessed December 25, 2022
- Kosciw, J. G., Clark, C. M., Truong, N. L., & Zongrove, A. D. (2020). *The 2019 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*. GLSEN.
- Magic City Acceptance Academy (2023). Our mission, our vision. <https://www.magiccityacceptanceacademy.org/our-mission-vision> Accessed January 20, 2023.
- Magic City Acceptance Academy. (2023). Wrap around services. <https://www.magiccityacceptanceacademy.org/wrap-around-services> Accessed January 20, 2023.
- National Center for Education Statistics. (2022). *Public charter school environment. Condition of Education*. <https://nces.ed.gov/fastfacts/display.asp?id=30>
- Accessed December 20, 2022
- Prothero, A. (2018, August 9). *What are charter schools?* <https://www.edweek.org/policy-politics/what-are-charter-schools/2018/08> Accessed December 20, 2022
- Public Charter School Insider. (2022). *History of charter schools*. <https://www.incharters.org/history.php> Accessed December 20, 2022
- School Choice and Opportunity Act. (2015). Senate Bill 45, Alabama Statute §§ 165751-6. <https://legiscan.com/AL/text/SB45/id/1178047/Alabama-2015-SB45-Enrolled.pdf>
- Shapiro, J. P., & Stefkovich, J. A. (2016). *Ethical leadership and decision making in education: Applying theoretical perspectives to complex dilemmas* (4th ed.). Routledge.
- Southern Poverty Law Center. (2020, February 5). *Alabama charter schools: Principles for ensuring equity and access*. <https://www.splcenter.org/20200205/alabama-charter-schools-principles-ensuring-equity-and-access>
- Starratt, R. J. (1994). *Building an ethical school: A practical response to the moral crisis in schools*. Falmer Press.
- Yin, R. K. (1994). *Case study research: Design and methods*. Sage.
- Zohn, R. (2019, August 14). *Charter school comes to Montgomery, Alabama*. <https://www.usnews.com/news/best-states/articles/2019-08-14/can-charter-schools-help-improve-the-public-school-image-in-montgomery-alabama>

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