

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD**

Bensalem Keystone Academy Charter School :
: **CAB Docket No. 2012-14**
v. :
:
Bensalem Township School District :

OPINION

This matter comes before the State Charter School Appeal Board (“CAB”) on an appeal by Bensalem Keystone Academy Charter School (“Bensalem Keystone Academy”) from the denial of its revised Charter School Application by the Bensalem Township School District (“District”).

PROCEDURAL HISTORY

Bensalem Keystone Academy submitted a revised application for a charter which was denied by the District on August 24, 2011. The District denied the revised application largely based upon the purported lack of sustainable support, unsuitable facility, improper budget and insufficient education program. As required by section 1717-A(i) of the Charter School Law (“CSL”), Bensalem Keystone Academy acquired the requisite number of signatures to appeal the District’s denial, and the Bucks County Court of Common Pleas determined that the signatures were sufficient. Bensalem Keystone Academy then appealed the denial of its revised charter application to CAB on October 16, 2012. During the course of the appeal, the facility proposed in the charter application became unavailable. Bensalem Keystone Academy ultimately found an alternative site. The District had the opportunity to view the alternative site, and on February 19, 2014, the District filed a statement of its position regarding the property. The District filed a

Motion to Dismiss based upon an alleged deficiency in suitability of the alternative facility.

CAB denied this motion on May 8, 2014, and the matter proceeded on the merits. After briefing and argument on the merits by the parties, CAB determined that Bensalem Keystone Academy's application met the requirements of the CSL with regard to the facility requirements.

FINDINGS OF FACT

1. Bensalem Keystone Academy submitted its application for a charter school to the District on November 12, 2010.
2. Public hearings were held by the District Board of Directors on December 15, 2010 and February 2, 2011.
3. The initial application was denied by the District on February 23, 2011.
4. Bensalem Keystone Academy submitted a revised application; and after another public hearing, the District again denied the application on August 24, 2011.
5. The District's denial was based upon issues having to do with sustainable support, the proposed budget, suitability of the facility, and sufficiency of the education program. (Certified Record ("C.R.") at 831-852).
6. Bensalem Keystone Academy's projected enrollment for its first year of operation is 360 students. (C.R. at 179).
7. It is anticipated that the proposed charter school will add a class of forty (40) students each year until 2015-16 when the projected total enrollment will be 520 students. (C.R. at 179).
8. Bensalem Keystone Academy submitted pre-enrollment forms from the parents of 249 kindergarten through eighth grade students residing in the District. (C.R. at 604-695; Exhibit F).

9. The application also included 111 signatures of support from parents, community members, and students in the District. (C.R. at 372-603; Exhibit E).
10. The application states that the International Baccalaureate program (“IB program”) will be utilized for the curriculum. (C.R. at 127).
11. The application includes a detailed description of the IB program. (C.R. at 127-47).
12. The IB program focuses on international education, emphasizes critical thinking, research, understanding and exploring culture, and utilizes a holistic approach to education. (C.R. at 127-130).
13. The curriculum offered also includes other innovations including a longer school year and vertically-integrated smaller classes. (C.R. at 109, 131, 157).
14. Bensalem Keystone Academy will also implement the National High School Alliance’s Six Core Principles and the Knowledge and Skills for University Success Standards. (C.R. at 116, 120-122).
15. The application also addresses the obstacles Bensalem Keystone Academy must address in order to become an International Baccalaureate school. (C.R. at 130).
16. The educational consultant retained by Bensalem Keystone Academy has been involved in the development of charter schools in Philadelphia and New Jersey. (C.R. at 183).
17. The educational consultant is a specialist in charter school start-up and services and was involved in the planning and development of the proposed charter school. (C.R. at 183).
18. Bensalem Keystone Academy’s application included a five-year plan using budget codes required by the Pennsylvania Department of Education, a five-year pro forma summary, an explanation of the assumptions used, and a detailed cash flow for the first year of operation. (C.R. at 330; Exhibit C).

19. The assumption in the budget of 100 percent enrollment was reasonable based upon the substantial pre-enrollments acquired by Bensalem Keystone Academy.

CONCLUSIONS OF LAW

1. The appeal is properly before CAB under the CSL. 24 P.S. § 17-1701-A(i)(1).
2. CAB has the authority under the CSL to agree or disagree with the findings of the School District based upon its review of the certified record. 24 P.S. § 17-1717-A(i)(6).
3. The application and supporting materials demonstrate that Bensalem Keystone Academy can be a model for other public schools and can provide different and innovative teaching methods and offer expanded choices in education pursuant to section 1717-A(e)(2)(iv) of the CSL. 24 P.S. § 17-1717-A(e)(2)(iv).
4. The Bensalem Keystone Academy application and supporting materials contain a financial plan that complies with section 1719-A(9) of the CSL. 24 P.S. § 17-1719-A(9).
5. Bensalem Keystone Academy has demonstrated sustainable support for the charter school plan by teachers, parents, other community members and students in accordance with section 1717-A(e)(2)(i) of the CSL. 24 P.S. § 17-1717-A(e)(2)(i).
6. The application and supporting materials demonstrate that the school can provide comprehensive learning experiences to its students. 24 P.S. § 17-1719-A(e)(2)(ii).
7. The application met all of the requirements of the CSL.

DISCUSSION

A. Standard of Review

Section 1717-A(e)(2) of the CSL provides that a charter school application is to be evaluated based on the following criteria:

- (i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held under subsection (d).
- (ii) The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.
- (iii) The extent to which the application considers the information requested in section 1719-A and conforms to the legislative intent outlined in section 1702-A.
- (iv) The extent to which the charter school may serve as a model for other public schools.

24 P.S. § 17-1717-A(e)(2).

In an appeal before CAB, the decision made by the local board of school directors shall be reviewed on the record, as certified by the local board of school directors. CAB shall give due consideration to the findings of the local board and specifically articulate its reasons for agreeing or disagreeing with those findings. 24 P.S. § 17-1717-A-(i)(6).

The Commonwealth Court has held in the case of the denial of a charter school application that “[t]he General Assembly has unquestionably granted [CAB] the authority to substitute its own findings and independent judgment for that of the local board.” *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 461 (Pa. Cmwlth. 2000).

Therefore, while giving due consideration to the vote of the School Board, CAB independently reviews the record in accordance with the requirements of the CSL.

B. Sustainable Support

A charter school applicant must demonstrate “sustainable support for the charter school plan by teachers, parents, other community members and students” in its application. 24 P.S. § 17-1717-A(e)(2)(i). Support may be measured in the aggregate, not by individual categories of support; and failure to demonstrate strong support in any individual category is not necessarily fatal to the application. *Brackbill v. Ron Brown Charter School*, 777 A.2d 131 (Pa. Cmwlth. 2001). Sustainable support is to be measured against the initial opening and operation plan of the charter school. *Bear Creek Community Charter School*, CAB Docket No. 2004-2, at 6- 7.

Bensalem Keystone Academy states in its revised application that its projected enrollment is 360 students for its first year of operation. The revised application includes pre-enrollment forms from the parents of 249 kindergarten through eighth grade students residing in the District, along with 111 signatures of support from parents, community members, and students in the District. Bensalem Keystone Academy asserts that the pre-enrollment forms and signatures of support constitute sufficient evidence of sustainable support.

The District denied the revised application, concluding that it failed to demonstrate that the proposed charter school had sustainable support of teachers, parents, other community members and students. In reaching this conclusion, the District found that Bensalem Keystone Academy had not submitted letters of support from local elected officials or business leaders. The District contends that pre-enrollments alone do not constitute sufficient evidence of community support.

CAB finds an adequate demonstration of sustainable support in Bensalem Keystone Academy’s revised application. There are substantial pre-enrollments, in addition to sufficient letters of support from the community. Furthermore, there is no specific requirement in the

charter school law requiring support from local elected officials. In the aggregate, this is sufficient support to meet the requirements of the CSL, and CAB rejects the District's finding to the contrary.

C. Comprehensive Learning Experience

A charter school applicant must also demonstrate that it is capable of providing comprehensive learning experiences to students in accordance with section 1717-A(e)(2)(ii) of the CSL. The District argues that Bensalem Keystone Academy failed to demonstrate its capability to implement the International Baccalaureate program ("IB program"). *See* 24 P.S. § 17-1717-A(e)(2)(ii). CAB has held that "capability" suggests at least a minimum absolute threshold of acceptability, and that the applicant must be capable of delivering comprehensive learning experiences. *William Bradford Academy Charter School*, CAB Docket No. 1999-8. Although an applicant must offer something more than "general pronouncements" to explain how it will fulfill the required standards, the proposed curriculum has been described by CAB as "essentially a roadmap to the school's operation, goals, teaching strategies and learning methodology." *Thurgood Marshall Academy Charter School*, CAB Docket No. 2001-05; *see also Bear Creek Community Charter School*, CAB Docket No. 2003-02.

Section 17-1719-A of the CSL provides that an application to establish a charter school shall include information regarding "the mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals." 24 P.S. §17-1719-A(5). The revised application describes Bensalem Keystone Academy's mission and goals, the IB curriculum to be taught, and the methods to assess student achievement. (C.R. at 118-127, 133-147, 168-169). Although the District argues that the original application contains only a two-page copy from the IB Organization website for the

Primary Years IB program, the revised charter application includes substantially more information regarding its educational program and includes a detailed explanation of the curriculum. (C.R. at 133-147). Additionally, the founding coalition has retained Dr. Harold Kurtz, Executive Director of Synergy Educational Consultants, who has been involved in the development of charter schools in Philadelphia and New Jersey and specializes in charter school start-up and services. (C.R. at 183).

The proposed curriculum is an established international curriculum from which many universities accept coursework as college credit; and thus the IB program will provide comprehensive learning experiences to students. (C.R. at 127-128) Bensalem Keystone Academy recognizes the rigorous process which it must undertake to implement this program, stating in its revised application:

It will take a great deal of commitment and professionalism for Bensalem Keystone Academy Charter School to become an IB World School. We are committed to the understandings of the values, the long-term implications of an IB school community and the IB mission statement. This process will include extensive professional development for the teachers in the fundamentals of the program and its pedagogical approaches, an assessment of the school's preparedness prior to final authorization and providing on-going and continuous professional development. We will adopt a continuous improvement model involving periodic evaluations of our programs.

(C.R. at 130). Bensalem Keystone Academy's revised application further exhibits an understanding of the resources available through the IB program which it plans to utilize for successful implementation of the curriculum. For example, Bensalem Keystone Academy explains that in order to offer the Primary Years Program, the school will have to go through a regulated IB authorization process and will have access to an extensive package of IB professional development for teachers and administrators. (C.R. at 135).

CAB concludes that the detail provided in the revised application regarding the core curriculum exhibits Bensalem Keystone Academy's capability to provide comprehensive

learning experience to students. Furthermore, Bensalem Keystone Academy has sufficiently demonstrated that it has familiarized itself with the requirements necessary to become an IB school, taken steps to prepare for that process, and is capable of implementing the core comprehensive curriculum.¹

D. Application Conforming with Section 1719-A and Legislative Intent

Section 1719-A of the CSL requires an applicant to provide the “financial plan for the charter school and the provisions which will be made for auditing the school under section 437.” 24 P.S. §17-1719-A(9). The budget submitted by an applicant need only provide sufficient evidence that “the charter school has considered fundamental budgeting issues and has determined it will have the funds to operate.” *In re: Lincoln-Edison Charter School*, CAB Docket No. 2000-11, at 17. The Charter School Law does not require specifics in the budget so long as it can be determined that the applicant is capable of providing a comprehensive learning experience for students. *Cent. Dauphin Sch. Dist. v. Founding Coalition of the Infinity Charter Sch.*, 847 A.2d 195, 202 (Pa. Cmwlth. 2004).

Bensalem Keystone Academy asserts that its financial plan comports with the requirements of section 1719-A(9) of the CSL because the application demonstrates that fundamental budgeting issues have been considered, and because the charter school will have the necessary funds to operate. The revised application included a proposed general fund budget including a five-year plan, a five-year pro forma summary, and supporting worksheets.

The District argues that Bensalem Keystone Academy had little or no working knowledge of an educational budget adhering to Pennsylvania Department of Education expectations, and that the budget called into question the capacity of the charter school to satisfy

¹ CAB cautions that the IB program is rigorous and difficult to implement; so the District should monitor the charter school's status as an IB school as this is a crucial component of the charter school.

the requirements of section 1717-A(e)(2)(ii) of the CSL. In reaching this conclusion, the District found that the budget for medical insurance was “possibly inadequate” to match the District’s benefits per section 1724-A(d) of the CSL,² that budget assumptions relating to food service were inadequate, and that the charter school’s assumption that it would have 100 percent enrollment showed a lack of understanding of enrollment change.

CAB finds that the budget submitted by Bensalem Keystone Academy satisfies the requirements of the Charter School Law. The Charter School Law requires only that a charter school consider fundamental funding issues, and determine that it will have the funds to operate. Bensalem Keystone Academy has considered fundamental funding issues (as exhibited by the five-year plan) and submitted budgeting forms utilized by the Pennsylvania Department of Education.

E. Model for Other Public Schools

Finally, a charter school application must also demonstrate that the charter school will serve as a model for other public schools, as required by section 1717-A(e)(2)(iv) of the CSL. 24 P.S. § 17-1717-A(e)(2)(iv). CAB has held that the CSL’s requirement that a charter school serve as a model for other public schools is meant to “**encourage** the use of innovative methods, not to exclude charter applicants whose proposed methods may not be as innovative or as different as the district believes they should be.” *City College Prep Charter School*, CAB Docket No. 2006-1 at 7 (emphasis in original). However, a “charter school must to some extent expand the curricular choices available to students and encourage innovative and different teaching methods.” *Id.* at 8.

² “Every employe of a charter school shall be provided the same health care benefits as the employe would be provided if he or she were an employe of the local district.” 24 P.S. § 17-1724-A(d).

The District asserts that Bensalem Keystone Academy's only innovative program is the IB program, and the District believes that the charter school is unable to implement the IB program. The District further asserts that Bensalem Keystone Academy has failed to demonstrate how its proposed educational program is innovative and distinctive from the District's program, has failed to show the existence of differences between its proposed programs and the District's existing programs, and has not demonstrated that its teaching methods are innovative. The IB program focuses on an international education, emphasizes critical thinking, research, understanding and exploring culture, and utilizes a holistic approach to education. (C.R. at 127-130). The IB program is an innovative curriculum that would expand the curricular choices available to students in the District. This fact is not disputed by the District which stated, in reference to the IB program, that "this is the only innovative teaching method offered by Keystone and the District does not believe that Keystone has demonstrated the ability to implement this program."

Since the District views the IB program as the only innovation Bensalem Keystone Academy will offer, the District points to the decision in *City College Prep Charter School* in which CAB held that the CSL appears to require more than one innovation in order for a charter school to be considered a model for other schools. *See City College Prep Charter School*, Docket No. 2006-01. In addition to the IB curriculum, Bensalem Keystone Academy included in its revised application other innovations that will make it a model for other schools. First, Bensalem Keystone Academy will offer a longer school year of 183 days, yielding an additional 70 hours of instructional time per year compared to the District. (C.R. at 157). Bensalem Keystone Academy will also offer a smaller class size that is vertically integrated, with each class consisting of 18-22 students, with smaller seminar classes for advanced courses. (C.R. at

109, 131). Additionally, Bensalem Keystone Academy will implement the National High School Alliance's Six Core Principles. (C.R. at 116). These standards will be adopted for students in grades 7-12 and will include personalized learning environments, academic engagement of all students, empowered educators, accountable leaders, engaged community and youth, all with an integrated system of high standards, curriculum, instruction, assessments, and supports. Lastly, Bensalem Keystone Academy will implement Knowledge and Skills for University Success Standards. (C.R. at 120-122). These standards include more time on task (all students take math, English, science and social studies for six years, and at least two years of foreign language), mastery learning (set of exit standards), cross-curricular integration, and linkages to college (exposure to colleges starting in grade 7 through college fairs, access to college courses, etc.).

All of these components of Bensalem Keystone Academy's educational program are innovations that will expand what is already offered to students and increase learning opportunities. Thus, CAB rejects the District's conclusion and finds that these innovations, along with the IB program, will expand the curricular choices currently offered to District students and render Bensalem Keystone Academy a model for other public schools.³

³ Due to the District's concern about whether Bensalem Keystone Academy will serve as a model for other public schools, CAB again cautions the charter school to be diligent in actually implementing its proposed innovations. These proposed innovations were considered to be an essential part of the reason that CAB determined Bensalem Keystone Academy would serve as a model for other public schools.

CONCLUSION

Based upon the findings of fact and conclusions of law set forth above and as discussed in this opinion, the State Charter School Appeal has determined that all of the requirements of the Charter School Law have been met. Thus, the decision of the Bensalem Township School District to deny the charter school application of Bensalem Keystone Academy Charter School is reversed as follows:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEAL BOARD

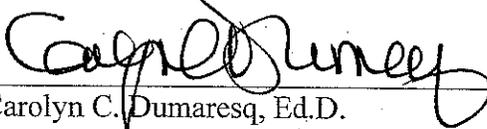
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ORDER

AND NOW, this 28th day of August, 2014, based upon the foregoing and the vote of this Board,⁴ the Appeal of the Bensalem Keystone Academy Charter School is GRANTED; and

Bensalem Township School District is directed to issue a charter to Bensalem Keystone Academy Charter School, pursuant to section 1720-A of the Charter School Law. 24 P.S. § 17-1720-A.

For the State Charter School Appeal Board,


Carolyn C. Dumaresq, Ed.D.
Chair

Date mailed: 8/28/14

⁴ At the Board's meeting on July 29, 2014, the appeal was granted by a vote of 6 to 0 with members Dumaresq, Henry, Miller, Munger, Peri, and Yanyanin voting.