

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

In Re: Environmental Charter School :
Appeal from Denial of Charter : **Docket No. CAB 1999-14**
by Palisades School District :

OPINION AND ORDER

I. Introduction

This matter is before the Charter School Appeal Board (“CAB”) on an appeal by the Environmental Charter School (“ECS”) of the denial of a charter by the School Board of Palisades School District (“School District”) under the Charter School Law¹ on a revised and resubmitted application to operate a charter school.

II. History

On November 13, 1997, ECS filed an application for a charter with the School District. Public hearings were duly advertised and held on December 8, 1997 and February 4, 1998. The organizing committee of ECS testified and twelve members of the public spoke in favor of the application and two opposed. The School Board by a 7-2 vote adopted a motion to deny the application on February 16, 1998 and issued a written decision on March 9, 1998.

On October 13, 1998, ECS submitted a revised charter school application resubmitting and supplementing its original application. Seven school board members and its superintendent toured the proposed facility for the school on November 21, 1998 and the Board held a public hearing on December 2, 1998. At the hearing, eight members of the public favored the application and five were opposed. On January 6, 1999, the Board in a 6-3 decision voted to deny

¹Act of March 10, 1949, P.L. 30, added by the Act of June 19, 1997, P.L. 225, 24 P.S. §§17-1701-1732.

the application and on February 5, 1999 issued a written decision (herein the “Decision”).

In its Decision², the Board enumerated the following reasons for its denial of a charter:

1. ECS has not demonstrated sustainable support for the ECS plan by teachers, parents, other community members or students as required under Section 1717-A(e)(2)(i).
2. ECS has not demonstrated the capability, in terms of support and planning, to provide a comprehensive learning experience to students pursuant to 1717-A(e)(2)(ii).
3. The ECS application did not meet the requirements of Section 1719-A (9), (11) and (13) because it failed to present an adequate budget for physical facilities, personnel, and student equipment, failed to provide adequate physical facilities, and failed to provide specificity concerning proposed faculty and personnel development.
4. ECS has not demonstrated that it would serve as a model for other public schools in accordance with Section 1719-(A)(e)(2)(iv).

On April 22, 1999, ECS filed a petition in the Court of Common Pleas of Bucks County to certify the appeal to the CAB, which was granted.

On September 8, 1999, ECS filed a Petition to Appeal with the CAB, which delegated the matter to a hearing officer for the purpose of hearing and certification of the record to the CAB. Thereafter, ECS and the School District requested that the CAB defer action pending the filing of an Amended Petition. ECS filed an Amended Petition of Appeal on November 22, 1999.

On December 17, 1999, the hearing officer issued a scheduling order establishing the time when: (1) the School District was to file the record made before the School Board; (2) requests

²The Board deems the grounds stated in the original denial letter of the School District waived for the purpose of this appeal, except to the extent adverted to in its final Decision.

were to be made to supplement the record; and, (3) briefs were to be filed.³

On January 4, 2000, the School District filed the certified record and on January 19, 2000, filed an answer to the Amended Petition. On January 20, 2000, ECS filed an objection to the certified record, asserting that the record was incomplete. In its objection, ECS included an affidavit of Marianne Snyder seeking to supplement the certified record with certain documents that were included with the objection and affidavit⁴. The School District objected to the supplementary documents because they were not considered by the School Board. By order of the hearing officer, the ECS affidavit and exhibits were included as a supplement to the certified record.⁵

Oral argument on the appeal was heard by the CAB at its meeting of March 13, 2000.

III. Findings of Fact⁶

1. ECS is a nonprofit corporation organized and existing under the laws of the Commonwealth of Pennsylvania having as its purpose the operation of a charter school.
2. On November 13, 1997, the founding coalition of ECS submitted an application for a charter to the School District. (C.R.-1).

³ECS and the School District waived the right to a hearing before the hearing officer. (Hearing Officer Exhibits 5 & 6).

⁴ECS also requested that the School District provide transcripts of the School District hearings on the application. The School District stated that transcripts did not exist but agreed to provide CAB and ECS counsel with the tapes.

⁵The School District argued that *In re Phoenix Academy Appeal*, CAB-1999-10, precluded the inclusion of ECS' supplemental exhibits concerning an occupancy permit issued by the Department of Labor and Industry. The hearing officer did not find Phoenix dispositive of the issue of whether the documents from the Department of Labor and Industry could have been obtained by ECS prior to the Board decision. The hearing officer accepted the assertion of counsel for ECS during oral argument via telephone conference on February 17, 2000 that ECS made a diligent attempt to obtain the document timely, but was unable to do so.

⁶References to the Certified Record are identified as C.R.-Tab Number-Page(s). References to the ECS submittal are identified as S.R-Tab or Exhibit Number-Page(s).

3. On December 8, 1997, a public hearing was held on the application. (12-8-97 School District tapes 1 & 2).
4. On February 16, 1998, the School District by a 7-2 vote denied granting a charter to ECS and on March 9, 1998 issued a written decision to ECS setting forth the grounds for its denial. (C.R.- 3).
5. ECS submitted a revised application to the School District on October 13, 1998. (C.R.- 4).
6. The revised application was substantially similar to the original application but included specific remedies and responses to the School District's decision of March 9, 1998. (C.R.- 4).
7. In addition to the revised application, ECS provided the School District with a community survey and additional documents and information concerning its charter school plan and curriculum. (S.R. Exhibits, 3, 6-10).
8. Seven school board members and its superintendent, Dr. Francis V. Barnes, toured the proposed facility for the charter school on November 21, 1998. (C.R. -12).
9. The School District held a public hearing on the revised application on December 2, 1998. (12-2-98 School District tapes 1 & 2).
10. The School Board again denied granting a charter based on the revised application by a 6-3 vote on January 6, 1999 and, on February 5, 1999, issued a written decision stating the reasons for the denial. (C.R.-12).
11. ECS filed a petition with the Court of Common Pleas of Bucks County for permission to appeal to the CAB, which was granted by order of the Court of June 22, 1999.

(C.R.-13, 14).

12. On September 9, 1999, ECS filed a Petition to Appeal with the CAB. (CAB Records).

13. On November 22, 1999, ECS filed an amended Petition to Appeal with the CAB. (CAB Records).

14. ECS intends to operate a school in the School District which will provide an innovative, experiential learning atmosphere, utilizing the practical application of academic principles in the context of an interdisciplinary environmental studies program, drawing on the ecological and artistic resources of Bucks County. (C.R. 1, 1-12).

15. ECS projects an initial enrollment of 54 students in grades 6-8, and to add one grade level each year up to grade12 and a maximum enrollment of 126. (C.R. 1, p. 14).

16. ECS proposes to use the transportation facilities of the School District to take students to and from school. (C.R.1, p. 31).

17. The revised application of ECS contained additional information about its proposed curriculum but it does not define the term “integrated curriculum” nor does it describe the contents of its mathematics, language arts and physical world classes. (C.R.4 *passim*).

18. The ECS revised application states that overall themes for each grade level have been articulated but are not to be considered a completed curriculum. (S.R. 4, p.2).

19. ECS intends to draw on its professional staff and the interests of its students to further the development of its curriculum. (S.R. 4, p.2).

20. ECS plans, with the exception of mathematics, to replace textbooks with community learning opportunities, reference materials and research via electronic learning. (S.R.

4, p.2).

21. The revised application contained a financial plan including a proposed budget and estimated expenditures over five years. (S.R. 4, p.2).

22. The revised application shows that ECS plans to rent Camp Kirby, a 14-acre summer camp facility of the Lions Club International, as the location of the school and secured a letter of intent from the Lions Club Board that it will lease the facility to the school and that the school will utilize the existing buildings with minor modifications being made to accommodate the school's needs. (C.R. 4, p. 14 and Appendix II).

23. The Camp Kirby facility as situated and equipped at the time of the revised application did not have plumbing or heating in many of the buildings, did not have educational fixtures, a library, cafeteria or nurse's office, and the driveway was too narrow to accommodate school buses in a manner so that the School District could safely transport students. (C.R. 12).

24. The revised application contained a description of the faculty recruitment plan and a plan for professional development and a revised plan for student expenditures. (S.R. 4, p.2).

25. The School District has approximately 16,000 residents and 2,000 students of which 500 are middle school students. (CAB Hearing March 3, 2000).

26. ECS provided 39 letters of support from families in the community and also letters of support from various environmental groups. (C.R. 1, Exh. D).

IV. Conclusions of Law

1. The CAB has jurisdiction in this matter.
2. ECS was given notice and an opportunity to be heard before the School District.
3. The ECS Application showed demonstrated, sustainable support by teachers, parents,

other community members and students as required by Section 1717-A(e)(2)(i), 24 P. S. §17-1717-A(e)(2)(i).

4. The ECS Application failed to establish that it had the capability, in terms of support and planning, to provide comprehensive learning experiences to students as required by Section 1717-A(e)(2)(ii), 24 P.S. §17-1717A(e)(2)(ii).

5. The ECS Application contained sufficient information to meet the requirements of Section 1719-A(9), (11) and (13), regarding a financial plan, facility, and professional staff and professional development as required by Section 1717-A(e)(2)(iii), 24 P.S. §17-1717-A(e)(2)(iii), and in accordance with the legislative intent of Section 1702-A, 24 P.S. §17-1702-A. Therefore, the School District's conclusions regarding these issues are reversed.

6. The ECS Application showed that its proposed charter school may serve as a model for other public schools under Section 1717-A(e)(2)(iv), 24 P.S. §17-1717-A(e)(2)(iv).

V. Discussion

A. Preliminary Issues

In the School District's Response to the Amended Petition, the School District averred that the Petition to the Bucks County Court of Common Pleas should have been denied because it was not filed within the 60-day period allegedly required under Section 1717-A(h)(2), 24 P.S. 17-1717-A(h)(2). The CAB notes that this section requires that the signatures in the petition be obtained within the 60-day period. The Charter School Law contains no time requirement for *filing* the petition. Secondly, the CAB notes that the Law does not give it the power to review decisions of the Court of Common Pleas. For these reasons, the CAB denies the School District's motion to dismiss the appeal.

The School District's next procedural issue concerns an exception to the inclusion of documents offered by ECS to supplement the record that was certified by the School District. The School District certified the record made before the School Board to the CAB on January 14, 2000. On January 20, 2000, ECS filed an objection by which it requested: (1) inclusion of the transcripts of the public hearings on the initial and revised application; (2) inclusion of documents provided to the school board or its representatives; and (3) inclusion of supplements to the record of material ECS received after the Board's vote and Decision.

On February 15, 2000, the School District filed a response to the objection stating that: (1) a transcript of the hearings did not exist but tape recordings were available to the CAB upon request; (2) Exhibit 3, a rebuttal letter to the initial denial, dated February 4, 1998, should not be included in the certified record because it was received after the first denial letter and before the revised application; and (3) Exhibits 11, 12 and 13 should not be included in the certified record because they were received after the final vote of the School Board. The hearing officer ordered that the tape recordings be filed and copies provided to ECS, and admitted the supplements to the certified record of the School District that were identified as Exhibits 1-13 of the Affidavit of Marianne Snyder.

The School District excepted to the order concerning S.R. Exhibits 11, 12 and 13.⁷ Exhibit 11 is a letter to Ms. Snyder from Patricia Vathis of the Pennsylvania Department of Education, which was requested before the School District's denial letter but not received until June 1999. Exhibit 12 is a letter dated January 27, 1999 from Marianne Snyder to the Bureau of Occupational and Industrial Safety of the Department of Labor and Industry for submission of

⁷Before the hearing examiner, the School District objected to other supplemental material, but it did not argue these objections to the CAB.

plans for an occupancy permit to use three existing buildings at Camp Kirby as a charter school. Exhibit 13 is a letter of approval of the plans dated February 1, 1999 from the Department of Labor and Industry, which Ms. Snyder states in her affidavit, was not received until July 1999.

The School District asserts that the CAB decision in *Phoenixville Academy Appeal*, CAB-10, prevents the CAB from allowing ECS to supplement the record under 1717-A(e)(6). *Phoenixville* concerned whether the applicant was required to identify a specific facility in its application to the school board. In that case the CAB held that the failure of the applicant to identify a site was a “fatal defect” in the application. *Phoenixville* did not address the issue of supplementing the record.

Here a specific site was identified. The School Board, while the application was pending, asked if ECS had applied for an occupancy permit. (Tape of December 2, 1998 hearing) This question generated ECS’ application for a permit. The action of the Department of Labor and Industry and ECS’ receipt of notice of that action were matters beyond the control of ECS. For these reasons, the CAB will not overrule the hearing examiner, except to note that the CAB does not rely on Exhibits 11-13 for its core conclusions regarding the findings of the School District.

In its appeal, ECS argues that the decision of the School District should be evaluated without consideration of the recommendation of Dr. Barnes, which is referenced in the Decision and portions of which are adopted in the Decision, because to do so would constitute a denial of ECS’ due process of law. (Hearing Officer Tab 9, pp.6-8). The CAB agrees that the Charter School Law confers upon ECS certain due process rights including notice and the opportunity to be heard, and the right to an adjudication that states the reasons for the school district’s decision.

The CAB does not agree that there has been a denial of due process in this instance. The

record shows that Dr. Barnes' evaluation was made available to ECS and that ECS had an opportunity to respond to it prior to the School Board vote and Decision. (S.R.-Exhibit 10).

Moreover, the record shows that Dr. Barnes acted as an agent and spokesperson for the School District, held informational meetings with ECS and received information from ECS.

The CAB finds that neither the Charter School Law nor due process prohibits the School Board from referring to or adopting in its adjudication (Decision), portions of the analysis or written recommendation of Dr. Barnes.

B. Standard of Review

ECS contends that the CAB is obligated to use its discretion and to independently weigh the factors relied upon by the School District in arriving at its own conclusion. The School Board contends that the CAB should review the Decision to determine whether the School Board abused its discretion, committed an error of law or violated a constitutional right.

Section 1717-A (i)(6) of the Charter School Law 24 P.S. §17- 1717-A (i)(6), provides that in an appeal from the denial of an application, the decision made by the local board of directors shall be reviewed by the CAB on the record certified by the local board of directors. The CAB must give due consideration to the findings of the local board of directors and specifically articulate its reasons for agreeing or disagreeing with those findings in a written decision. Further, the CAB has the discretion to allow the local board of directors and the charter school applicant to supplement the record if the supplemental information was previously unavailable. The CAB shall apply these principles in its review of the Decision in this appeal.

C. Review

The School District found that ECS failed to provide sufficient information to establish

that it met each of the criteria of Section 1717-A (e)(2) of the Charter School Law, 24 P.S. §17-1717-A(e)(2). That section requires a school board to evaluate a charter school application based upon the following enumerated 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 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.

Section 1719-A of the Law, 24 P.S. §17-1719-A, requires that a charter school include in its application 17 enumerated criteria. In this application, the School District determined that the following criteria had not been met:

- (9) The financial plan for the charter school and the provisions that will be made for auditing the school under Section 437.
....
- (11) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.
....
- (13) The proposed faculty and a professional development plan for the faculty of a charter school.

1. Demonstrated, sustainable support under Section 1717-A(e)(2)(i).

The School District acknowledged the effort of the organizing group. Nonetheless, the Board concluded: “Although the Board has reviewed the letters of the community groups as set forth in the Charter School application and heard a few favorable comments at its public meetings those letters and comments represent only a small portion of the approximately 16,000 residents in the community.” (C.R. 1, P-6) The Board also noted that it had received “very limited, if any” comments from School District teachers or students and it criticized ECS for not providing the School Board with the names of parents who were committed to sending their children to the proposed school in the 1999-2000 school year. A final factor upon which the Board based its conclusion was the opposition to the proposal expressed at Board hearings on the application.

The “demonstrated sustainable support” for the charter school plan is an inherent variable based upon the size of the proposed school, the size of the community and other factors. In determining whether a charter applicant has demonstrated sustainable support, the CAB has determined that only the degree of support for the Charter school is relevant, not the degree of opposition. Moreover, the CAB evaluates the degree of support in the aggregate, and, as stated in *In Re: Phoenix Academy Charter School Appeal*, CAB-1999-10, failure to demonstrate support in one category is not fatal.

ECS proposes a small school with an initial enrollment of approximately 54 and an average class size of 18 students in three middle grades. The ECS plan is to add a grade each year to build a program for grades 7-12. Thus, the proposal should not be expected to garner a significant proportion of the entire population of the district to support it. Similarly, the proposal should not be expected to garner a significant degree of support from teachers. Finally, the

existence of opposition is irrelevant to the issue of sustainable support.

The CAB finds that the failure of ECS to provide the names of parents committed to sending their children to the school is not an essential criteria to demonstrate sustainable support for the plan. In its Application, ECS provided the School District with information regarding the results of its surveys of the community and its efforts to obtain the support of the community and local environmental groups for the ECS program. (C.R. -1; S.R.-2) These groups, including recreation departments and state parks, were not considered by the School District. Additionally, 20 persons, some parents, spoke in favor of the proposal at the school board hearings held in regard to the initial and revised applications. (See tapes of School Board hearings)

The CAB finds this evidence of support is both substantial and relevant to the issue of the sustainability of the school. For these reasons the CAB concludes that the School District relied on irrelevant evidence and failed to consider un rebutted relevant evidence regarding the support for the charter school plan. The CAB finds this evidence sufficient to meet the requirements of Section 1717-A(e)(2)(i), 24 P.S. §17-1717-A(e)(2)(i).

2. The capability of ECS, in terms of support and planning, to provide comprehensive learning experiences to students under Section 1717-A(e)(2)(ii).

The School Board found that the proposed use of Camp Kirby as a school facility, the proposed curriculum, and the faculty development plan evidence a lack of planning and support. The reasons for the School District decision are discussed below.

a. Curriculum

The School Board adopted the Superintendent's analysis of the ECS plan and concluded that the revised proposal was still lacking the necessary specificity to insure "qualitative integrity." In its Decision, the School Board cited and adopted pages 2-5 of the Superintendent's assessment. (C.R.-12, p. 9). It concluded that the proposed "integrated curriculum" is replete with a similar lack of detail. Citing questions raised in the assessment of the ECS Application done by Duquesne University Charter School Project, the Decision stated: "The Board cannot promote the use of 'alternative educational models' which do not contain essential components of a secondary curriculum or permit students to be successfully integrated in other educational forums."

In addition, the School Board found that the logistics of the ecology-based curriculum rendered ECS's proposed budget "woefully inadequate" for the 10 field trips in the proposed application. ECS also failed to address how it intended to accommodate children with physical disabilities or special needs.

Section 1719-A(5), 24 P.S. §17-1719-A(5) requires that the charter school describe a curriculum of some substance. Goals and guidelines as to what the curriculum may be in the future are insufficient. The CAB agrees with the School District that ECS' proposed curriculum does not show the planning and specificity that assures that students would receive comprehensive learning experiences. The curriculum as outlined in the revised application, while providing an educational plan for environmental and ecological concerns, does not address other components of a comprehensive educational plan. Thus, the finding of the School District regarding the curriculum deficiencies is supported by the record.

With regard to funds for field trips and accommodating disabilities, the ECS plan stated

that the charter school would make such accommodations as necessary. A charter school cannot know the accommodations that it will need to make for special needs children until it enrolls students. Given this constraint, the CAB believes that it was unreasonable for the School District to disapprove the ECS plan for lack of more detail in this respect. Ability to pay for the proposed number of field trips alone is not a basis upon which to evaluate the curriculum; however, this does provide supplementary evidence regarding the inadequacy of ECS' planning efforts.

Based upon all of the above, the CAB concludes that the School District properly determined that the ECS Application had not established the requisite capability, in terms of support and planning, to provide comprehensive learning experiences as contemplated by Section 1717-A(e)(2)(ii).

b. School Facilities

ECS has a letter of intent from the Lions Club International that it will lease its 14-acre camp as a school site. The Board concluded that it had “numerous questions” concerning the suitability of the existing buildings at Camp Kirby to serve as a school facility.

The specific deficiencies noted by the school board were:

1. Many of the current buildings are not equipped with heating, plumbing or electrical system for the winter months.
2. The buildings are not equipped with educational fixtures such as chalkboards and laboratory sinks and tables or storage.
3. There are no designated areas for a library, cafeteria, nurse's office or a secure administrative area for confidential files.
4. The driveway into Camp Kirby is too narrow for school buses to safely enter and exit

for purposes of transporting charter school students.

5. ECS failed to submit a detailed capital improvement plan showing how the facility would meet necessary zoning and licensing requirements and still stay within its budget.
6. ECS did not include a plan for storage of the school's furniture, equipment and records when the school year ended and the Lions Club resumed use of the facility as a summer camp for deaf children.
7. ECS failed to submit evidence that it had contacted the Department of Labor and Industry and other government agencies to familiarize itself with the applicable regulations to determine if Camp Kirby could operate as a school site.
8. ECS provided no evidence of adequate liability insurance on the part of Camp Kirby.

In its appeal, ECS contends its application satisfied the requirements of Section 1719-A(11) by describing the physical facility. It asserts that a detailed facility plan is not required by the Charter School Law, and that such a plan would be influenced by the date of approval of such a charter. The CAB notes that in prior decisions it has held that a detailed facility plan is not required under the Charter School Law.⁸ The CAB has reasoned that in providing for the approval of charter schools, the Legislature intended the Law to be liberally interpreted to encourage the development and growth of such schools. It follows that the Legislature could not have intended that school districts require, as a condition of approval of a charter, that all necessary elements of the school's physical plant be established. The CAB finds that denying a charter to ECS based upon its failure to have all necessary plans and/or approvals for the facility set forth in the application is not permitted.

⁸See, e.g., *Bradford Appeal, supra, In re Sugar Valley Rural Charter School Appeal*, CAB-1999-4; *in re Souderton Charter School Collaborative*, CAB-1999.

Notwithstanding the above, the CAB notes that ECS' inability to adequately plan for a charter school is evidenced, not only by the inadequate curriculum it has set forth, but by its failure to adequately address issues raised about the facility. Although particular and exact details and plans regarding the preparation of the facility for use as a school are not required, ECS has not provided any evidence that it had even considered some of the issues pertaining to use of the facility as a school. We reiterate that providing specifically detailed plans about a facility is not necessary for issuance of a charter, but the charter school applicant must be able to at least identify and/or acknowledge that work will be required to prepare the building for use as a school. ECS' failure to do this is further indication of its failure to establish its capability, in terms of support and planning, to provide comprehensive learning experiences.

c. Proposed Faculty and Professional Development Plan

There were two factors upon which the School Board relied in determining that the Application was insufficient in providing information on this subject, which also evidenced a lack of planning. First, it found no recruitment plan which, in the School Board's judgment, precluded ECS from taking advantage of Section 1724-A(a) of the Charter School Law which permits one quarter of the professional teaching staff to be non-certified. The School Board also found that the lack of a recruitment plan precluded the School Board from determining whether the proposed faculty possessed the requisite 'level of environmental' expertise to offer an innovative alternative curriculum. Secondly, it found that the development plan was "too preliminary to evaluate."

The revised application contains a description of ECS' recruitment efforts. It also contains a list of potential candidates with a notation that confidential information had been given to the Superintendent. In the CAB's view the School Board intruded into the legitimate decision-making

authority of the charter school. There is simply no basis to conclude that the Legislature intended that a school board deny an application if the Board disagreed with the expertise of the charter school's proposed teachers. The purpose of the Charter School Law is to allow the charter school to operate independently of the School Board's judgments in these matters. Similarly, it would be reasonable to assume that the professional development plan may be preliminary until the professional staff is hired and specific development needs can be assessed. In most instances, a professional staff would not be hired until the charter was approved. In addition, the Charter Law gives teachers a greater responsibility for the learning program at the charter school, and therefore, it is conceivable that they should be involved in the final planning of the professional development plan. Therefore, the CAB believes that the School District's disapproval of ECS' application based upon the failure to detail its recruitment plans or its professional development plan was erroneous.

3. The extent to which the application considers the information requested in Section 1719-A(E)(2)(iii).

The School Board found that the Application's financial plan was inadequate because it failed to budget sufficient funds for: physical facilities, professional development, technology and equipment for the school and student expenditures.

a. Description of the Physical facility of the Charter School

With regard to physical facilities, the School Board concluded “Absent the Applicant presenting written evidence of the actual terms and conditions of its proposed rental agreement with the Lions Club, the Board must presume that the \$28,000 listed in the budget is extremely low and therefore, inadequate to ensure acceptable educational facilities.” (C.R.-12 p. 11)

The CAB has previously held that the Charter School Law does not require that an applicant provide the existence or the terms of a lease. The tape recording of the December 8, 1999 hearing indicates that the budgeted rental amount was an estimate provided by ECS’s accountant. The CAB has discerned nothing in the record supporting the inadequacy of the budgeted \$28,000. Therefore, the School District could not deny a charter to ECS on the basis that it presumed the amount budgeted for rent was inadequate.

b. Proposed Faculty and Professional Development Plan

Similarly, the School Board found the proposed compensation package inadequate because ECS’ budget for employer contributions and benefits was limited or nonexistent and did not take into account the need for experienced quality teachers to provide instruction in the diversity of subject areas planned by ECS. The School Board also found that the \$2,500 budgeted for professional development was insufficient to cover the expenses traditionally associated with such programs. The School Board speculated that the professional costs for ECS should be greater because of the need to train teachers in the use of an environmentally based curriculum.

As discussed in the previous section, a faculty was not yet hired by ECS and, therefore, the professional development that would be required could not yet be specifically determined. Likewise, the cost of such professional development could not specifically be determined. In addition, a

budget for compensation of teachers may not have been specifically determined because a faculty was not yet hired. Although the CAB finds that the perceived insufficiency of ECS' budgeted costs for a compensation package and professional development are alone not a basis upon which to deny a charter, it again provides supplementary evidence regarding the inadequacy of ECS' planning efforts, and therefore, its ability to provide comprehensive learning experiences.

c. Technology and Equipment

Finally, the School Board noted that the revised plan increased the amount of equipment funds per student from \$500 to only \$823.15. The School Board viewed this amount as being insufficient to equip students with classroom furniture, maps, library books, textbooks, science equipment and field trips. Although this seems to be a relatively low amount for such equipment, this alone cannot be the basis for denying a charter. Nevertheless, it once again provides supplementary evidence of the inadequacy of ECS' planning efforts.

4. The extent to which ECS would be a model for other public schools in accordance with Section 1719-A(e)(2)(iv).

In its decision the School Board expressed the view that the ECS proposal was not fully developed and needed to have a comprehensive plan in order to serve as a model for other public schools.

One of the goals of the Legislature in providing for charter schools in the Commonwealth was to "encourage the use of different and innovative teaching methods." Section 1702-A(3), 24 Pa. C.S. §17-1702-A(3). ECS proposes to teach students the elements of a traditional middle school curriculum within the context of nature and ecology studies that has as its core the effect of mankind on nature and nature on mankind. The School Board does not challenge ECS's assertion that its interdisciplinary teaching methods focusing on nature and the environment as learning

tools is different and innovative. Instead, the School Board focuses on the lack of a comprehensive plan. The CAB has agreed with the School Board that the proposed curriculum shows a lack of planning and specificity to assure that students receive comprehensive learning experiences. Therefore, unless and until the curriculum is more fully developed, the CAB cannot find that ECS would be a model for other public schools.

D. Summary

The CAB holds that the School Board's finding that the ECS Application does not demonstrate the capability, in terms of support and planning, to provide comprehensive learning experiences to students should be affirmed. Therefore, the Decision of the School Board to deny the charter is affirmed.