

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

In Re:

INDEPENDENCE CHARTER SCHOOL :
INITIATIVE, :
Appeal From Denial Of Charter School Application :
By The Board Of Education Of The School District : **Docket No. CAB 2000-2**
Of Philadelphia :

OPINION AND ORDER

I. INTRODUCTION

This matter is before the Charter School Appeal Board (hereinafter “CAB”) on an appeal by the Independence Charter School Initiative (hereinafter “Charter School”) pursuant to §17-1717-A(g) of the Charter School Law¹ as a result of the failure of the School District of Philadelphia (hereinafter “School District”) to grant or deny the charter within the statutorily required time period.² As a result of the School District’s failure to act and the Charter School’s timely appeal, the CAB must review the Charter School Application (hereinafter “Application”) and make a determination to grant or deny the charter based upon the criteria set forth in §17-1717-A(e)(2).

For the following reasons we conclude that the Charter School met the requirements of the Charter School Law. Therefore, the Charter School’s appeal is granted and the School District will be ordered to sign the charter.

¹ Act of June 19, 1997, P.L. 225, No. 22 (24 P.S. §17-1717-A(g)).

² The School District filed a Motion to Quash several charter school appeals, including this matter, in which it raised the issue of the 75-day statutory time period. CAB disposed of the matter on May 31, 2000, in which CAB determined it had “original jurisdiction” in this matter pursuant to §17-1717-A(g) of the Charter School Law.

II. FINDINGS OF FACT

1. The Charter School is a non-profit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania having as its purpose the operation of a charter school (C.R. 103a-106a).³

2. On November 15, 1999, the Charter School timely filed an application with the School District for a charter school to be called the Independence Charter School (C.R. 381a-385a).⁴

3. On or about December 9, 1999, the School Board issued ten (10) “supplemental questions” to charter school applicants, requesting written responses on or before December 13, 1999. The Charter School timely submitted its written response to the supplemental questions.

4. On December 14, 1999, the Board of Education of the School District of Philadelphia (hereinafter “School Board”) held its first and only public hearing on the Charter School application. Several members of the Charter School appeared before the School Board to give presentations and answer questions in support of the application. In addition to the public testimony, the Charter School provided the School District with supplementary materials in support of the application at the hearing, including written copies of the oral presentations before the School Board, sample community outreach materials and additional letters of support of the Charter School from *Asociacion De Musico Latino Americanos*, the Settlement Music School and Urban Strategies, Inc. (C.R. 122a –158a).

5. On or about January 10, 2000, at a regularly scheduled School Board meeting, Jean-Claude Jacquot, a parent, community member and Philadelphia resident, made a presentation to the School Board in support of the Charter School’s application.

³ References to the Certified Record are identified as C.R. Page Number(s) (e.g. C.R. 1a).

⁴ At the Hearing Officer’s request the parties have stipulated to Findings number 2 – 6 as set forth in the record.

6. On or about January 31, 2000, the Charter School sent a letter to Pedro A. Ramos, Esquire, President of the School Board, enclosing petitions with signatures of over 300 community members in support of the Charter School application (C.R. 176a –192a).

7. On February 22, 2000, a representative of the Charter School appeared before the School Board at a public meeting and spoke in support of the Charter School application (C.R. 377a – 380a).

8. The School District failed to grant or deny the Charter School application within seventy-five (75) days of the first public hearing, as set forth in the Charter School Law.

9. The Charter School properly and timely filed its appeal to CAB on or about March 1, 2000, seeking review of the Charter School application (C.R. 381a – 385a).

10. On March 13, 2000, the School Board purportedly denied the Charter School application as set forth in the official minutes of the School Board, and by letter dated March 22, 2000, to representatives of the Charter School and to the Secretary of Education, Eugene W. Hickok (C.R. 391a-392a).

11. The Charter School intends to start operation with kindergarten to third grade and add an additional grade each year until the school operates from K - 6th grade (C.R. 22a).

12. The projected student enrollment for the first year of operation is 287 students with another 92 students added each year thereafter for a total of 563 students (C.R. 3a; 22a).

13. On January 31, 2000, the Charter School notified the School District, by letter, that a suitable location for the proposed charter school had been identified (C.R. 176a).

14. The Charter School will be a predominantly parent-run school governed by a nine-member Board of Trustees comprised of mostly parents of school-age children selected

from founders, parents and active community members. Other advisory boards and committees will be open for parent participation (C.R. 34a -41a).

15. The Board of Trustees will develop policy for the Charter School and oversee institution accountability and performance assessments and will also be responsible for annual reports to the School District and to the Commonwealth (C.R. 38a).

16. The Charter School application states that faculty will be selected based on academic achievement, demonstrated classroom competency, relevant experience and the ability to contribute to the school's instructional program and mission. All staff hired will have a probationary period prior to being offered a permanent position (C.R. 41a).

17. The Charter School will have a student/teacher ratio of 20:1 in kindergarten and 23:1 in grades 1-3. In future years, class size will be maintained at 23:1 or lower (C.R. 41a).

18. The Charter School expects that in the first year there will be thirteen (13) full-time regular education teachers, two full-time specialist teachers, one full-time foreign language teacher, one Chief Administrative Officer ("CAO") and two instructional aides (C.R. 41a; 49a - 56a).

19. The Charter School calendar will begin September 1 and end on June 30 each year. School hours will be from 8:30 a.m. until 3:00 p.m. each day and instructional time will be 5.75 hours daily for an annual total of 1,121 hours. For the 2000-2001 school year, the schedule will include 195 days, 15 more days than the 180-day requirement for school districts (C.R. 23a).

20. The Charter School's curriculum has three main elements: thematic units regarding world culture; an intense Spanish language instruction program (including an optional language immersion pilot program); and, incorporation of abundant community, historical and cultural resources into the curriculum (C.R. 6a).

21. The Charter School intends to use grade-specific benchmarks to augment instruction and to assess the learning, growth and development of each student (C.R. 6a -18a).

22. The Charter School will ensure that all charter school students are given the opportunity to master the knowledge and skills measured in the Stanford Achievement Test ("SAT-9") and the Pennsylvania System of School Assessment ("PSSA") tests, including the international cultures units and the foreign language program (C.R. 29a- 32a; 112a).

23. The Charter School's application indicates that the academic curriculum incorporates local, state and national standards, tailored to the school's world cultures and language acquisition theme (C.R. 4a-5a; 8a-18a).

24. The Charter School views second language acquisition as a key element of its world cultures curriculum. Beginning in kindergarten, all students will have content-based Spanish language instruction for a minimum of thirty minutes each day relating to the world cultures unit under study. (C.R. 6a-8a).

25. The Charter School states that it has developed consulting relationships with nationally recognized experts in the field of early language learning. Both experts have indicated their respective commitment to working with the Charter School as consultants (C.R. 61a-62a).

26. Teachers and administrators will be evaluated through a combination of performance evaluation and self-assessment. All staff members will be observed by the Chief Administrative Officer, using a standardized observation protocol (C.R. 32a).

27. The admission policy of the Charter School will be in accordance with the Charter School Law. The Charter School will implement its recruiting and marketing plan to attract a sufficient pool of students. If the number of applicants from Philadelphia exceeds the projected enrollment, a public lottery will be held and a waiting list established. If the number of

Philadelphia applicants is less than projected enrollment, all Philadelphia applicants will be admitted and a lottery will be held for out-of-city applicants (C.R. 23a).

28. The Board of Trustees, with the advice and input of the CAO and faculty, will develop a Code of Student Conduct modeled on the School District's Code of Conduct. The Code will be reviewed annually by the Board with involvement from parent and faculty representatives (C.R. 23a –24a).

29. The Charter School's policies will provide all due process protections for the student regarding suspension and expulsion of students. This process will be modeled after the School District's policies and procedures, including parental notification, and a hearing with an opportunity for the student and his/her representative to speak on the student's behalf. (C.R. 23a-24a; 114a).

30. The Board of Trustees shall have the responsibility and authority to expel the student and also determine whether reinstatement into the school is appropriate (C.R. 114a).

31. The Charter School notes that continued parental involvement is vital to the success of the Charter School and its students, and the Charter School envisions dynamic parental participation, including serving on the Board of Trustees and other committees and volunteer capacities, such as Parent-School Associations and parent Spanish classes (C.R. 45a; 117a).

32. The Charter School has established or intends to establish relationships with local, educational and civic organizations, including but not limited to *Congresso De Latinos Unidos, Inc.*, the Afro-American Historical and Cultural Museum, The Balch Institute for Ethnic Studies, the National Museum of American Jewish History and Education and Spanish Departments of local universities (C.R. 44a-45a; 59a-78a).

33. On January 31, 2000, the Charter School forwarded to the School District petitions bearing signatures from community members in support of the Charter School's application (C.R. 176a-192a).

34. The founders of the Charter School entered into a consulting agreement with Drexel Foundations/Technical Assistance Center, a non-profit organization specializing in assisting the development and administration of charter schools, whose members include former public school superintendents, teachers, administrators and financial officers (C.R. 120a-121a).

35. The Charter School application describes its proposed preliminary start-up and operating budget (C.R. 49a- 56a).

36. The Charter School submitted a detailed budget and financial plan containing a list of revenue sources and expenditures along with two years of cash flow projections (C.R. 49a- 56a).

37. The Charter School intends to pursue various public and private grant opportunities. The CAO will have responsibility for preparing applications for federal grants such as Title I, Title II and Title VI. The Board of Trustees intends to actively seek additional sources of funding to enhance and enrich the school's program (C.R. 47a).

38. The Charter School states in its application that the CAO will have the responsibility to develop a complaint and grievance procedure for parents. The development of this procedure will involve members of the staff and the Parent Advisory Council, subject to the approval of the Board of Trustees (C.R. 40a)

39. On January 31, 2000 the Charter School informed the School District that a suitable location had been found for the charter school and that negotiations were underway (C.R. 120a;176a).

40. The Charter School informed the CAB at the May 16, 2000 hearing that it made arrangements with a Philadelphia based, non-profit community development organization that has pledged to fund the purchase of a site, and the construction of a brand new facility to serve as a permanent home for the charter school. Negotiations for purchase of the site are in the final stages and architectural plans for the school's construction are being drawn (CAB Hearing Transcript, p. 92).

41. The Charter School states that its staff will be identified and hired upon the approval of the charter application. It will recruit all interested and qualified persons, selecting a staff that meets certification requirements and the needs of the school. Special effort will be made to attract bilingual teachers, in accordance with the school's instructional mission (C.R. 41a-42a).

42. The Charter School will develop a professional development plan in accordance with State requirements, designed to support teachers in enhancing their skills consistent with the mission and operating procedures of the school (C.R. 42a –43a).

43. The Charter School's teachers will receive professional development on techniques for utilizing peer mentoring, cooperative learning and computer-aided instruction in the classroom. The teachers will need to know how to provide alternative or multiple approaches to teaching, such as multiple intelligences and project-based teaching (C.R. 115a –116a).

44. The Charter School intends to require intensive professional development for its teachers to ensure knowledge, understanding and implementation of best teaching practices. It will review and assess instructional practice on a regular basis and enact a system of professional accountability (C.R. 18a;112a).

45. The Charter School will offer a number of after school extra-curricular programs to its students such as homework help, tutoring, Spanish language support, cultural activities through clubs and recreational and social activities (C.R. 25a).

46. The Charter School does not intend to participate in the School District's extra-curricular activities (C.R. 25a).

47. The Charter School indicates in its application that it will obtain medical, liability, life and other necessary insurance (C.R. 42a-43a).

48. The Charter School will employ a psychologist on a contracted hourly basis and has allocated for such expense within its budget (C.R. 49a -53a).

49. The Charter School has proposed a child-accounting process that conforms to State law, and it is to be linked with the School District's on-line information system (C.R. 24a).

III. CONCLUSIONS OF LAW

1. The Charter School Law governs the application and approval processes and operations of charter schools.

2. The School District failed to grant or deny the Charter School application within seventy-five (75) days of its first public hearing, as set forth in the Charter School Law.

3. In accordance with §17-1717-A(g), this matter is properly before CAB, which shall review the Charter School application and make a decision to grant or deny a charter, based on the criteria established in §17-1717-A(e)(2) of the Charter School Law.

4. In accordance with §17-1717-A(g), CAB will stand in the place of the School District and render a decision based on the record developed and certified on May 19, 2000, by the Hearing Officer.

5. The Charter School has the burden of proving that all of the enumerated requirements, set forth in §17-1717-A(e)(2) of the Charter School Law, have been satisfied.

6. The Charter School application demonstrates sustainable support by teachers, parents, other community members and students as required by §17-1717-A(e)(2)(i), 24 P.S. §17-1717-A(e)(2)(i).

7. The Charter School application reasonably establishes that it has the capability, in terms of support and planning, to provide a comprehensive learning experience to students as required by §17-1717-A(e)(2)(ii), 24 P.S. §17-1717-A(e)(2)(ii).

8. The Charter School application contains sufficient information to meet the requirements of §17-1717-A(e)(2)(iii), which are the extent to which the application considers the information requested in §17-1719-A, 24 P.S. §17-1719-A and, the extent to which it conforms to the legislative intent outlined in §17-1701-A, 24 P.S. §17-1702.

9. The Charter School application demonstrated that its proposed charter school may serve as a model for other public schools under §17-1717-A(e)(2)(iv), 24 P.S. §17-1717-A(e)(2)(iv).

IV. DISCUSSION

Section 17-1717-A(e)(2) of the Charter School Law, 24 P.S. §17-1717-A(e)(2), sets forth the factors to be used in the evaluation of the proposed Charter School application, which, in the present case, will be utilized by the CAB in its “original” jurisdiction to review the proposed application. As a result of the School District’s failure to grant or deny the proposed charter school application within the statutory 75-day period and the Charter School’s timely appeal thereof, the CAB stands in the shoes of the School District and reviews the charter school application pursuant to the following four-pronged statutory 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 1720-A.
- (iv) The extent to which the charter school may serve as a model for other public schools.

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

Subsection (i) (relating to demonstrated sustainable support) requires that community support be shown in the application or by comments received at public hearings. In addition, §17-1719-A sets forth what is to be contained in the application, including information on the manner in which the community groups and parents will be involved in the school planning process. While the legislature did not define what is meant by "community" or "community involvement" the CAB can rely upon other provisions of the Charter School Law for guidance.

As CAB stated in *Phoenix Academy*,⁵ the degree of support for the proposed charter school plan is relevant, not the degree of opposition. The CAB concludes that the term "sustainable support" means support sufficient to sustain and maintain the proposed charter school as an on-going entity.

Furthermore, the indicia of support are to be measured in the aggregate rather than by individual categories. The statutory listing of "teachers, parents, other community members and students" indicates the groups from which valid support for the charter school plan can be demonstrated. It does not appear that the General Assembly intended this list to be mutually exclusive or exhaustive. Failure to demonstrate strong support in any one category is not

⁵ In re: Phoenix Academy Charter School, CAB No. 1999-10.

necessarily fatal to an application. Nevertheless, a reasonable amount of support in the aggregate must be demonstrated.

In the present matter, the Charter School has clearly shown a reasonable amount of support from teachers, parents, students and other community members. The projected enrollment for the first year of operation will be 287 students with another 92 students added each year thereafter for a total of 563 students. The Charter School intends to start operation with kindergarten to third grade, with an additional grade added each year until the school operates as a “K-6” school (C.R. 3a; 22a). The Independence Charter School is intended to be a predominantly “parent-run” school with a Board of Trustees comprised of mostly parents of school-age children from the local community.

The Founders of the Charter School, who made several presentations to the School Board, publicized and conducted several informational meetings within the community, including an out-reach public meeting on September 27, 1999, which was attended by parents, community members, teachers, principals and various political leaders. The record reveals that the Charter School representatives have established, or intend to establish, relationships with local, educational and civic organizations such as those listed in the application (C.R.44a-45a; 59a-78a). According to the application, those very same organizations will become an integral part of the Charter School’s curriculum.

In addition, on January 31, 2000, the Charter School submitted to the School Board approximately 300 signatures of community members in support of the proposed charter school. The School District has alleged that several of the signatures are from individuals outside of the local community, but presented no evidence on the record to support this contention.

The CAB finds this evidence of community support both substantial and relevant to the issue of sustainability of the school. For these reasons, the CAB concludes this evidence is sufficient to meet the requirements of §1717-A(e)(2)(i), 24 P.S. §17-1717-A(e)(2)(i).

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

The curriculum as outlined in the application will employ a variety of instructional methods to deliver an internationally focused curriculum, which will feature thematic units based upon world cultures. The entire school will study certain regions of the world and their respective cultures on a regular rotating basis. The record indicates that the Charter School will emphasize multi-lingualism and take advantage of local cultural and educational institutions, museums and businesses to broaden the students' perspectives. To that end, the Charter School intends to draw upon parents, families, community members and senior citizens who can share their knowledge, experiences and ideas.

While the charter school's focus is squarely on fostering knowledge of a diversity of cultures and countries, the school will not lose sight of two key traditional goals of public education: teaching young children the fundamental values of a pluralistic democracy and the acquisition of the basic language, literacy and computational skills necessary to function productively (C.R. 4a). The Charter School will include an intense Spanish language instruction program for all students, including an optional language immersion pilot program. The Independence Charter School intends to utilize grade-specific benchmarks to augment instruction and to assess the learning, growth and development of each charter school student. The Charter School will ensure that all charter school students are given the opportunity to master the

knowledge and skills measured in the Stanford Achievement Test (“SAT-9”) and the Pennsylvania System of School Assessment (“PSSA”) tests (C.R. 29a- 32a; 112a).

According to the Charter School, proposed faculty and staff will be identified and hired upon the approval of the charter. It will seek to recruit all interested and qualified persons, selecting a staff that meets the certification provisions of the Charter School Law, including criminal history record checks and official clearances pursuant to 23 Pa.C.S. Chapter 63 (relating to background checks), as set forth in Section 1719-A (15) & (16), 24 P.S. §17-1719-A(15) & (16). The Charter School application indicates that a professional development plan will be developed in accordance with State requirements. It will be designed to support teachers in enhancing their skills, including the development of techniques for utilizing peer mentoring, cooperative learning and computer-aided instruction in the classroom.

Based upon the above, the CAB finds that, in terms of support and planning, the Charter School is capable of providing comprehensive learning experiences to students.

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

The Charter School application contains all of the requested information set forth in §17-1719-A(1 – 17) of the Charter School Law. Specifically, the application includes, but is not limited to the following⁶: the Charter School’s proposed admissions policy and criteria for evaluating the admission of students (C.R. 23a); the school calendar, including the length of the school day (C.R. 23a); a comprehensive operating budget and financial plan for two years with cash flow projections (C.R. 49a-56a); the identification of a suitable proposed charter school facility (C.R. 120a;176a); and the proposed governance structure of the Charter School,

⁶ Because each provision of subparagraphs 1-17 is delineated in the “Findings of Fact” section, not all of the requirements will be discussed herein.

including a description and method for the appointment or election of members of the Board of Trustees (C.R. 38a).

Based upon all the information provided in the application by the Charter School, CAB finds that information contained therein, conforms to the "legislative intent" set forth in section 1702-A, 24 P.S. §17-1702-A. Accordingly CAB concludes that the Charter School has complied with the provisions of subsection (iii).

4. The extent to which the charter school may serve as a model for other public schools in accordance with Section 1719-A(e)(2)(iv).

As we stated in our decision in *Environmental Charter School*⁷ 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.” 24 P.S. 1702-A(3). Independence Charter School proposes to teach students K – 6th the basics of an elementary education, but with a defining feature of the curriculum as “world culture”. The Charter School asserts that this curriculum will encompass a key element of second language instruction and international music, art history, geography and cultures. The CAB believes, based upon the information contained in the certified record, that the Charter School will encourage “different and innovative teaching methods” which may serve as a model for other public schools as required by §1717-A(e)(2)(iv), 24 P.S. §17-1717-A(e)(2)(iv).

⁷ In Re: Environmental Charter School, CAB No. 1999-14.

ORDER

AND NOW, this _____ day of July, 2000, based upon the foregoing and the vote of this Board,⁸ the appeal of Independence Charter School Initiative is affirmed and the Philadelphia School District is directed to grant the application and sign Independence Charter School Initiative's charter pursuant to 24 P.S. § 17-1720-A.

FOR THE STATE CHARTER SCHOOL
APPEAL BOARD

Eugene W. Hickok, Jr.
Chairman

⁸ At the Board's July 19, 2000 meeting, the appeal was granted by a vote of 6-0, with members Aliota, Bunn, Melnick, Reeves, Shipula and Hickok voting to grant the appeal.