

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

**IN RE:**

**The Genesis Charter School**

**:**

**Docket No. CAB 2000-9**

**INTRODUCTION**

Pursuant to the Charter School Law, the Genesis Charter School (“GCS”) filed an application with the School District of Philadelphia (“Philadelphia”) for a charter. 24 P.S. §§17-1701-A et seq., as amended. When Philadelphia failed to act on the application within the statutory time period, GCS filed an appeal with the Charter School Appeal Board (“CAB”) pursuant to 24 P.S. §17-1717-A (g), asking CAB to rule on the charter application. By previous order, CAB has determined that it has jurisdiction to rule on GCS’s charter application.

**FINDINGS OF FACT**

1. On or before November 15, 1999, Genesis Charter School (“Genesis”) filed an application for approval to operate a charter school for the 2000-2001 school year with the School District of Philadelphia.
2. On December 17, 1999 the district’s Board of School Directors held a public hearing on the application, at which Genesis’ representatives appeared, gave presentations and answered questions. (Ex. #5)
3. The District provided Genesis with supplemental questions and Genesis provided written responses to those questions. (Ex. #6)

4. The 75th calendar day after the December 17, 1999 hearing before the School District was March 1, 2000.
5. The School District did not render a decision on Genesis' charter school application on or before March 1, 2000. (School District Letter of March 22, 2000).
6. On March 13, 2000, Genesis filed the instant appeal, pursuant to Section 1717-A(g) of the Charter School Law, citing the School District's failure to grant or deny the application within 75 days after the first public hearing of the application, as required by Section 1717-A(e)(1) of the Charter School Law.
7. On March 14, 2000, the State Charter School Appeal Board ("CAB") appointed a Hearing Officer to conduct a hearing and develop the record in this appeal.
8. The parties waived the prehearing conference, as well as the right to a hearing for the purpose of presenting evidence that was not available at the time of the December 17, 1999 hearing before the School District. (Letter from Genesis' counsel to the district's solicitor dated April 13, 2000)
9. The School District certified and forwarded to the Hearing Officer the record below before the School District, which consisted of: (a) the Charter School Application; (b) the Supplemental Questions and Responses; and (c) the Transcript of the December 17, 1999 hearing before the School District.
10. Shortly before the June 15 argument before CAB, Genesis attempted to introduce additional documentary evidence in support of its appeal, which documentation was conditionally accepted by the Hearing officer.
11. Argument before the CAB was held on June 15, 2000.

12. The evidence regarding support for the charter school plan by teachers, parents, other community members and students, consisted of the signature petitions filed with CAB after the appeal (Ex. #3) and statements of support from five community or children's service organizations (Ex. #7). In addition, the application includes as supporters three potential members of Genesis' board of trustees.

13. There was no evidence of support from students or from teachers.

14. The applicant is a group of individuals associated with the Franklin Group Ministries, a neighborhood community service agency. (Application, p. 32).

15. The school is designed to be a middle school serving students in grades 5 through 8. The school anticipates an initial enrollment of approximately 360 students in the 2000-01 school year. (Application).

16. The applicants will form a non-profit corporation which will be governed by a Board of Trustees. The application indicates the manner of selection of the trustees and their powers. (Application, pp. 33-35, 43).

17. Genesis' mission is to provide underserved middle school-age students "with an innovative, technically enhanced program which actively engages the entire community in the educational preparation of the student." (Application, p. 1).

18. The charter school is proposed to be located in a building located at State Road and Tacony Street, which building will be leased from its owner, the Arsenal Business Community. (Application, p. 42, Exhibit #6).

19. The charter is designed to include other community service organizations and to provide post-school follow-up to former students, yet it is unclear how these efforts will relate to Genesis' school function and how funding streams will be segregated.

## CONCLUSIONS OF LAW

1. The standard that the Charter School Appeal Board must apply in making its decision in this case is set forth in Section 1717-A(e)(2). CAB is not required to consider the findings or decision of the School District because the District's decision was rendered more than 75 days after the first public hearing and also after this appeal had been filed. 24 P.S. § 17-1717-A(g).

2. Since Genesis waived its right to a hearing before the Hearing Officer to present additional evidence not available at the time of the hearing before the School District, the decision in this case is to be based on the application and the testimony and documentation submitted by Genesis to the School District. 24 P.S. § 17-1717-A(i)(6).

3. The criteria for evaluating a charter school application, under Section 1717-A(e)(2) of the Charter School Law are:

(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).

4. Genesis failed to demonstrate "sustainable support for the charter school plan by teachers, parents, other community members and students," as required by Section 1717-A(e)(2)(i) of the Charter School Law. Signature petitions allegedly including parents of students in the area to be served were untimely filed. Otherwise, the demonstrated support was meager at best – 3 potential board members and five organizations. 24 P.S. § 17-1717-A(e)(2)(i).

5. Genesis did not establish that it can provide “comprehensive learning experiences to students” pursuant to Section 1717-A(e)(2)(ii) of the Charter School Law. 24 P.S. § 17-1717-A(e)(2)(i).

### **OPINION**

Before addressing the merits of the charter application, a preliminary matter needs to be addressed. Shortly before this appeal was scheduled for oral argument and presentation of the record to CAB, Genesis provided additional material to the Hearing Officer for inclusion in the application. Among the documents submitted were several pages of signatures purporting to support the charter school. The school district opposed admission of this material on the grounds of timeliness. Additionally, it contested the signatures on the grounds of illegibility, residence of some signatories in New Jersey, and duplication of some pages. The Hearing Officer conditionally admitted the additional material, provided Genesis with the opportunity to correct the defects in the signatures, and invited both parties to brief the issues raised by the submission of this information. Genesis submitted some original signature pages, however, neither party has filed a brief on the admissibility of the material.

Section 1717-A (g) of the Charter School Law describes the procedure to be followed if a local school board, as here, fails to act on a charter application within the statutory time limits.

That section in pertinent part states:

failure by the local board of directors to hold a public hearing and to grant or deny the application for a charter school within the time periods specified in subsections (d), (e) and (f) shall permit the applicant for a charter to file its application as an appeal to the appeal board. In such case, the appeal board shall review the application and make a decision to grant or deny a charter based on the criteria established in subsection (e)(2).

24 P.S. §17-1717-A(g). The statute does not further describe the process in such an appeal in CAB's original jurisdiction. That notwithstanding, the party proffering additional evidence outside of the application and supplemental material that are already before the board of school directors, must provide a basis for us to include additional material in the record. Such a position finds support in the fact that all that remained to be done in this case was for the board of school directors to render a decision on Genesis' application. Thus, the record should have been complete. Thus, even in this original jurisdiction appeal, the charter applicant should have averred that the supplemental information was not previously available. Here, no such showing was made. Thus, these signature pages will not be considered.

In addition, even absent legal argument, several of the district's substantive objections to the signatures submitted by Genesis have merit. For example, some signatures were alleged to be duplicative, they were excluded by the Hearing Officer and were not resubmitted by Genesis. Some pages were original copies while others were merely photocopies, which were difficult to read. All the signature sheets requested a variety of information, yet the information supplied was inconsistent from signer to signer. Thus, even were these documents admissible, Genesis would have the burden of submitting legible signatures and ensuring that there is enough information to assess the support of the signatories.

Under Section 1717-A(g) CAB is directed to use the four criteria set out in 1717-A(e)(2) in its evaluation of an application, such as this one, filed as an appeal in CAB's original jurisdiction. These criteria shall hereinafter be applied to the facts of record in this matter.

First, subsection 1717-A(e)(2)(i) states that a charter school application must demonstrate 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). The language of this subsection is inclusive, rather than exclusive. CAB need not weigh each indicia of support equally. While the statute seeks evidence of the support of each listed group, prior decisions illustrate that it is the aggregate of support that is crucial. Some areas of support are easier to meet than are others. In the Genesis application, the support derives from individuals and organizations that are directly involved with the proposed charter institutionally. For example, the application lists the support of potential board members, (Ex. 7, pg 79-90), and community groups such as Big Brothers, Big Sisters, and Alpha Phi Alpha fraternity (Ex. 7, Pg 95-6). In addition, the application includes letters of support from within the Frankford Group Ministry<sup>1</sup>, the very group that is "partnering" with Genesis in its attempt to obtain the charter. (Ex. 7, pg. 91-92.) Even this support, however, seems rather minimal.

There is no evidence of support from teachers or students who may attend the school. Although this alone would not be fatal, absent the untimely signature petitions there is no other evidence of parent or community support.<sup>2</sup> The application is devoid of such support and no

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<sup>1</sup> Although GCS will have a close relationship with Frankford Group Ministries and its affiliated organizations, there is no evidence in the application that the provisions of the Charter School Law regarding sectarian organizations or education are being violated. A motion to reopen the record on this issue to include therein Frankford's incorporation papers was filed by the school district on July 31, 2000. At the Board's meeting of August 22, 2000, before voting on the appeal, the Board by unanimous vote rejected the motion to reopen.

<sup>2</sup> The only evidence of parental support submitted by Genesis consists of a letter from a Frankford Group Ministry program coordinator. (Ex. 7, pg. 91). That letter states that the staff and members of the Frankford Group Ministry's Neighborhood Parenting Program support Genesis. (*Id.*) If parents within the Frankford area are interested in the creation of the charter school it is not an unreasonable burden to obtain signed form letters

parents testified at the hearing before the Board of School Directors. In a high-density urban area such as Philadelphia, a charter applicant should and must demonstrate a higher level of community support than is evident in this record. (Ex. 1, pg. 43-44) The lack of parent signatures is especially troubling in light of the comments of Daniel Lee before CAB. There, Mr. Lee stated that the Frankford area, in which the school is to be located, has the fifth largest youth population in Philadelphia. (Id.) Notwithstanding Mr. Lee's testimony that Genesis had nearly 100 parents who had committed to register their children, no independent evidence of such support exists on the record. (Id.)

Weighing all of this evidence, CAB finds that Genesis has not provided sufficient evidence of community support in the aggregate and thus, its appeal must be denied.

The second criterion (subsection 1717-A(e)(2)(ii)) concerns 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. The expertise of Genesis' founding members lends support that the proposed curriculum is an acceptable comprehensive learning experience. (Ex. 7, pg. 62-72). In addition, the members of the board of trustees have extensive experience in the educational field. (Ex. 7, pg. 79-87.)

The application, however, raises several concerns. It appears that Genesis proposes to invest scarce resources in students who are outside the scope of the charter school. Both at the hearing before the district and in the supplemental responses Genesis discussed participation in a joint program with a fraternity to help tutor former Genesis students when they move on to high school. (Ex. 5, pg. 106; Ex 7, pg. 95) Although the founders testified that the bulk of the

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indicating that support. Here, a third party and an interested party, the Frankford Group Ministry, is speaking for the very individuals whose support is pivotal to the charter school's success. It is also noteworthy that the proffered letter of parental support is from a program for children under age five. It would take a full six years before the oldest child in that program would even be eligible to attend Genesis.

funding for this program will come from an outside source, any use of charter school funds for students outside the charter school program would be inappropriate.

In addition, Genesis proposes to develop a substantial network of social-support programs around the students, parents, and community members associated with the school. Over and above the educational goals outlined in its application, various social outreach programs that are to be conducted by Genesis are also detailed. First, the school is to serve as a welfare-to-work placement facility. (Ex. 6, pg. 16) Second, the school facility will be used to house on-site community-based service organizations. (Id.) These items are in addition to the partnership with the Alpha Phi Alpha fraternity to support charter school alumni. (Id.) This total package describes a somewhat wider mission than that outlined in the Charter School Law. CAB does not denigrate this mission, however, the concern and limits of this appeal are the ability of the charter to provide comprehensive learning opportunities. This application, clearly goes beyond the Charter School Law's focus - the education and development of school-aged children. Community development, welfare outreach, and academic assistance programs that go beyond those students enrolled in the charter school are also beyond our scope. More significantly, they are not properly included in the charter application. The legislative intent of §§1702-A provides for the re-distribution of scarce state and local resources to the educational benefit of those children specifically defined in the charter of a charter school. This aspect of the charter is a significant concern and the charter should not allow for an impermissible diversion of educational resources beyond that incidental to a "whole person" education of the fifth through eighth grade students to be enrolled in the charter school.

Thus, because of the above-expressed concern about spreading its financial and other resources among various programs, we cannot find that Genesis has shown the ability to provide comprehensive learning opportunities for students.

Because of the shortcomings of Genesis' application discussed above<sup>3</sup> and because this Board is acting in its original jurisdiction the other required elements of the application will not be discussed. The appeal of Genesis Charter School is denied.

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<sup>3</sup> The grounds discussed herein are sufficient to support this Board's denial of the appeal and this opinion does not represent a determination that matters not discussed either meet or do not meet the Charter School Law's requirements.

**ORDER**

AND NOW, this \_\_\_\_ day of August, 2000, based upon the foregoing and the vote of this Board,<sup>4</sup> the appeal of the Genesis Charter School is denied.

FOR THE STATE CHARTER SCHOOL  
APPEAL BOARD

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Eugene W. Hickok, Jr.  
Chairman

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<sup>4</sup> At the Board's July 19, 2000 meeting, the Board voted 3-3 on whether to grant the appeal. Based upon precedent in a prior appeal and the advice of counsel that the Charter School Law required an affirmative or negative vote of a majority of the Board, which would be four votes, this tie vote resulted in no action on the appeal. The appeal was, thus, carried over to the August 22, 2000 meeting of the Board. At that meeting the appeal was denied by a vote of 4-1, with members Bunn, Melnick, Reeves and Shipula voting to deny the appeal and member Hickok voting to grant the appeal.