



Commonwealth of Pennsylvania  
State Charter School Appeal Board

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October 24, 2005

Kevin McKenna Esquire  
350 Eagle View Boulevard  
Suite 100  
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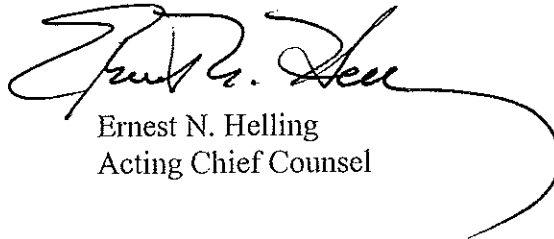
Re: Lehigh Valley Academy Regional Charter School  
Docket No. CAB 2005-04 & CAB 2005-06

Dear Mr. McKenna:

Enclosed please find the decision of the State Charter School Appeal Board, which Chairperson Zahorchak today signed in the above-noted matter. This decision reflects the Board's vote regarding your petition from the meeting of July 26, 2005.

In accordance with the Charter School Law, this decision may be appealed to the Commonwealth Court of Pennsylvania.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ernest N. Helling", with a long, sweeping flourish extending to the right.

Ernest N. Helling  
Acting Chief Counsel

Enclosure

cc: Robert Sonnenberg, Esquire  
Brian Monahan, Esquire

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

<b>In the Matter Of:</b>	:	<b>Docket Nos.</b>
<b>Lehigh Valley Academy Regional Charter School</b>	:	<b>2005-04 2005-06</b>
	:	
<b>v.</b>	:	
	:	
<b>Bethlehem Area School District</b>	:	
	:	
<b>AND</b>	:	
	:	
<b>Saucon Valley School District</b>	:	

**DECISION AND ORDER**

The State Charter School Appeal Board (Board) met on July 26, 2005 and accepted the record in this appeal. The Lehigh Valley Academy Regional Charter School (Lehigh Valley) is a regional charter school, serving students from the Bethlehem Area and Saucon Valley school districts. Lehigh Valley applied to the Bethlehem Area School District for a renewal of its charter. The Bethlehem Area School District took no action and, consistent with 24 P.S. §17-1717-A(g) Lehigh Valley filed a Petition to Appeal with the State Charter School Appeal Board (CAB). On April 28, 2005, the Bethlehem Area School District filed a letter with the CAB which stated, in pertinent part, “the District will not be responding to nor participating in [Lehigh Valley’s] Petition to Appeal” (*Certified Record, Item 3*).

Subsequently, Lehigh Valley applied to Saucon Valley and Saucon Valley took no action. Consistent with 24 P.S. §17-1717-A(g) Lehigh Valley filed a Petition to Appeal with the CAB. Between the June 2, 2005 appeal filing and the July 26, 2005 CAB meeting, Saucon Valley voted to unanimously approve the Lehigh Valley Charter

on June 27, 2005. The parties submitted documentation of that decision to the CAB along with a stipulation to withdraw a question regarding attorney's fees from consideration. The Board's counsel proposed a motion to dismiss the Saucon Valley appeal as being moot, which the CAB adopted by a vote, as Saucon Valley unanimously approved Lehigh Valley's Charter on June 27, 2005.<sup>1</sup>

CAB will now address the remaining issues concerning Lehigh Valley. These proceedings are governed by Pennsylvania's General Rules of Administrative Practice and Procedure, which are found in Title 1 of the Pennsylvania Code. Section 35.35 of those rules provides the School District a period of 20 days to file an answer to the appeal. If the school district fails to answer it "may be deemed in default, and relevant basic facts stated in the ... petition [to appeal] may be deemed admitted." 22 Pa. Code § 35.35. The certified record in this appeal, as accepted by the CAB at its meeting, includes the following documents: (1) the Petition for Appeal filed by Lehigh Valley; (2) the Charter School Renewal Request which had been filed with Bethlehem (appended to the Petition); and (3) the Bethlehem School District's letter of April 28, 2005 to the CAB.

Although Bethlehem's letter was filed within the prescribed time permitted for answers, the letter did not constitute an answer either admitting or denying the averments of Lehigh Valley's Petition to Appeal. Thus, the issue before the CAB was whether Bethlehem should be deemed in default because it did not file an answer and because Bethlehem clearly expressed the intention not to participate in this matter before the CAB. Were Bethlehem to be deemed in default, then the facts averred in the appeal would be deemed admitted and, as a result the appeal would of necessity be granted and

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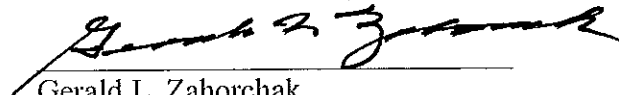
<sup>1</sup> With CAB members Bunn, Reeves, Shipula and Zahorchak voting in favor of the motion, it was adopted unanimously by a vote of 4-0.

the charter renewed. A motion to deem Bethlehem in default was made and seconded at the meeting and the motion was adopted by vote of the CAB.<sup>2</sup> Thus, the CAB enters the following:

**ORDER**

AND NOW, this 21<sup>st</sup> day of October, 2005, based upon the foregoing, the Bethlehem Area School District is deemed to be in default in this matter and the appeal of the Lehigh Valley Academy Regional Charter School is granted. A renewal charter will be granted within 10 days of the date of this Order, if the Board of School Directors fails to execute a renewal charter. The Saucon Valley School District appeal is dismissed as being moot.

For the State Charter School Appeal Board

  
Gerald L. Zahorchak  
Chairperson

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<sup>2</sup> With CAB members Bunn, Reeves, Shipula and Zahorchak voting in favor of the motion, it was adopted unanimously by a vote of 4-0.