

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION**

**STATE CHARTER SCHOOL APPEAL BOARD**

**In Re: Renaissance Charter School** :  
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 :  
 **Appeal from the revocation/non-renewal** : **Docket No. 2008-07**  
 **of charter by the School Reform Commission** :  
 **of the School District of Philadelphia** :

**OPINION**

**I. INTRODUCTION**

This matter comes before the Pennsylvania State Charter School Appeal Board (hereinafter “CAB”) on Appeal by the Renaissance Charter School (hereinafter “Renaissance” or “Charter School”) from the revocation/non-renewal of its Charter by the School Reform Commission of the School District of Philadelphia.

**II. FINDINGS OF FACT**

1. The Board of Education of the School District of Philadelphia granted a charter to Renaissance Charter School in 1999. Renaissance operated under this charter from September 1, 1999 until August 31, 2003. *See* School District Exhibit 3.<sup>1</sup>

2. Effective December 22, 2001, the Secretary of Education of the Pennsylvania Department of Education, declared the School District of Philadelphia (hereinafter “District”) to be a distressed school district and all powers and duties of the District’s Board of Education became vested in the School Reform Commission. *See* Dist. Exh. 4.

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<sup>1</sup>Hereinafter, all references to the School District of Philadelphia’s Exhibits admitted into evidence at the June 17, July 10 or August 6, 2008 hearings before the School Reform Commission will be identified as Dist. Exh. # \_\_. References to Renaissance’s Exhibits admitted into evidence at the same hearings before the School Reform Commission will be identified as Ren. Exh. #\_\_. Both sets of Exhibits are part of the Certified Record, which was received by CAB on January 20, 2009.

3. The School Reform Commission (hereinafter the “SRC”) renewed Renaissance’s Charter for the five-year term from September 1, 2003 through August 31, 2008. *See* Dist. Exh. 4.

4. On January 15, 2008, Renaissance applied for a renewal of its Charter. *See* Dist. Exh. 13.

5. On April 16, 2008, the SRC issued a Resolution in which it stated that there were substantial grounds to deny Renaissance’s request for renewal and set a date for a public hearing on the matter. *See* Dist. Exh. 18.

6. The SRC held public hearings, which included testimony related to its decision to deny Renaissance’s request for renewal, on June 17, July 10 and August 6, 2008. *See generally* Notes of Testimony, Certified Record Items 3-5.<sup>2</sup>

7. After a 30 day public comment period, the SRC voted to deny Renaissance’s request for renewal and, on October 15, 2008, issued a Resolution and Adjudication to that effect. *See* Certified Record, Item 9.

### **III. CONCLUSIONS OF LAW**

1. CAB has jurisdiction in this matter.

2. The Charter School Law (hereinafter “CSL”), Act of June 19, 1997, P.L. 225, No. 22, 24 PS §§ 17-1701-A *et seq.*, governs the application process, the approval process, the revocation/renewal of charters and the operation of charter schools in Pennsylvania.

3. In determining whether a school district’s non-renewal of a charter is appropriate, CAB shall give due consideration to the findings of the local board of school directors and specifically articulate reasons for agreeing or disagreeing with the board. 24 P.S. § 17-1729-A(d); *see also West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 571 Pa. 503, 516-17 (2002).

4. In determining whether the revocation of a school’s charter was appropriate, CAB

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<sup>2</sup> Hereinafter, any citations to testimony before the SRC will be referenced by the hearing date and page number, i.e. June N.T. at page \_\_\_\_.

shall review the record made in the proceedings below and may supplement the record at its discretion with information that was previously unavailable. 24 P.S. § 17-1729-A(d).

5. In addition to the record, CAB may consider the charter school plan, annual reports, student performance and employee and community support for the charter school. 24 P.S. § 17-1729-A(d).

6. Because the statutory standards for review of charter non-renewals are the same as those for the review of charter denials, CAB shall make a de novo review of the District's non-renewal of Renaissance's Charter. *Compare* 24 P.S. § 17-1717-A(i)(6) *with* 24 P.S. § 17-1729-A(d); *see also West Chester* at 516-17.

7. A district must conduct a hearing, present evidence in support of the grounds for non-renewal stated in its notice to the charter school and give the charter school reasonable opportunity to offer testimony before taking final action to terminate a charter. 24 P.S. § 17-1729-A(c).

8. The CSL places the burden of proof on the School District of Philadelphia to present substantial evidence to substantiate its reasons for non-renewal of a charter. *See* 24 P.S. § 17-1729-A(c).<sup>3</sup>

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<sup>3</sup> Both the District's and Renaissance's Briefs in this matter include some discussion related to the type of evidence a district is required to produce before terminating a charter school's charter. *See* 24 P.S. § 17-1729-A(c). This discussion presents CAB with the opportunity to clarify what it meant by using the word "compelling" to describe the evidence produced – or not produced - by districts in previous cases. *See Renewal Application of the Lincoln Charter School*, CAB Docket No. 2005-03; *see also In Re: Fell Charter School*, CAB Docket No. 2007-04. The CSL requires a district, before terminating a charter, to produce substantial evidence in support of its findings; if a district cannot meet this burden, it may not terminate a charter school's charter. Additionally, the reasons for terminating a charter must be compelling in the sense that a charter school's violations of the terms of its charter or the CSL are significant, material and fundamental. Essentially, to comply with the CSL, a district must satisfy two prongs, as it must produce substantial evidence of a compelling (*i.e.* material) violation at the hands of a charter school whose charter it wishes to terminate.

9. The School District of Philadelphia met its statutory obligations under the CSL. *See* 24 P.S. § 17-1729-A(c).

10. Once a charter is granted, the charter school is required to comply with the terms and conditions contained in the charter, as well as the school's charter school application, which is incorporated into the charter. 24 P.S. § 17-1720-A.

11. The CSL allows a school district to terminate a charter if the charter school fails to meet generally accepted standards of fiscal management or audit requirements. 24 P.S. § 17-1729-A(a)(3).

12. Renaissance failed to meet generally accepted standards of fiscal management and audit requirements.

13. The CSL allows a school district to terminate a charter if the charter school has committed one or more material violations of the conditions, standards, or procedures of its charter. 24 P.S. § 17-1729- A(a)(1).

14. Renaissance has committed material violations of the conditions, standards and procedures contained within its written Charter.

15. The CSL allows a school district to terminate a charter if a charter school has violated any of the provisions of the CSL. 24 P.S. § 17- 1729-A(a)(4).

16. Renaissance has violated the CSL, in that it failed to comply with those requirements relating to the certification of personnel. *See* 24 P.S. § 17-1724-A(a).

17. The CSL allows a school district to terminate a charter if a charter school has violated any provision of law from which the charter school has not been exempted. 24 P.S. § 17-1729-A(a)(5).

18. Renaissance failed to comply with other laws from which it is not exempt, namely the Public Official and Employee Ethics Act (hereinafter “State Ethics Act”), 65 Pa. C.S. § 1101 *et seq.*

19. The record in this appeal supports the non-renewal of Renaissance’s Charter.

#### **IV. DISCUSSION**

The Pennsylvania General Assembly enacted the CSL to provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system. It was the intent of the Legislature that charter schools improve pupil learning, increase learning opportunities for all students and offer diverse and innovative educational techniques while operating independently of the traditional public school system. *See* 24 P.S. § 17-1702-A.

Pursuant to Section 1729 of the CSL, a school district may deny the renewal of a charter if the district provides substantial evidence that a charter school has:

- (a) [Committed] one or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to Section 1720-A.
- (b) Fail[ed] to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or fail[ed] to meet any performance standard set forth in the written charter signed pursuant to Section 1716-A.
- (c) Fail[ed] to meet generally accepted standards of fiscal management or audit requirements.
- (d) Violat[ed] provisions of [the Charter School Law].
- (e) Violat[ed] any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.
- (f) [B]een convicted of fraud.

24 P.S. § 17-1729-A(a).

In the present case, the School Reform Commission denied the Charter School's request for renewal of its charter because: Renaissance did not meet generally accepted standards of fiscal management or audit requirements; Renaissance failed to meet AYP in four of the five years of its Charter; Renaissance has not materially complied with the terms of its Charter; Renaissance failed to meet certification requirements; and Renaissance repeatedly failed to submit required documentation.

Before addressing the merits of the Appeal, it is necessary to dispose of Renaissance's outstanding Motion to Supplement the Record, which was filed with CAB on February 3, 2009. Specifically, Renaissance seeks to include four items into the record: (1) Dr. Schuh's report related to the Charter School's PSSA results, which was excluded from evidence at the hearings before the SRC; (2) audited financial statements for fiscal years 2003 and 2004; (3) documents regarding computer lab, science facilities and the Charter School's waiting list; and (4) the ongoing assessment of the Charter School's students and after school program.

The standard regarding the admission of supplemental information in these proceedings is whether the information was previously unavailable. 24 P.S. § 17-1729-A(d). Although the CSL does not define "previously unavailable," the Commonwealth Court has provided guidance on the issue: "[i]nformation that was previously unavailable cannot include information that could have been obtained and submitted for inclusion into the record prior to the district's vote." *Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400, 405 (Pa. Cmwlth. 2003). Additionally, CAB has previously held that the CSL clearly requires "that the applicant submit all information that it could produce that supports its application at the time of the application. The law does not provide for serial supplementation of the record after deliberation by the

District. If information did not exist, and could not have existed, at the time of that hearing, the CAB could decide to consider that information in reaching its decision.” *College Prep Charter Sch.*, CAB Docket No. 2006-01.

With the exception of Renaissance’s 2008 PSSA and Stanford test results, it is clear that the information, which Renaissance seeks to include into the record, did exist or could have existed at the time of the hearings before the SRC and, therefore, could have been submitted for inclusion into the record prior to the SRC’s vote. Thus, CAB now denies Renaissance’s Motion to Supplement the Record with respect to all documents except the 2008 PSSA and Stanford test results.<sup>4</sup>

**Renaissance Failed to Meet Generally Accepted Standards of Fiscal Management or Audit Requirements**

In relevant part, Renaissance’s Charter requires that by October 15 of each year, or such other date as may be specified by the Commonwealth, a copy of the independent financial audit required under 24 P.S. § 17-1719-A and 24 P.S. § 4-437 be submitted to the District.<sup>5</sup> *See Dist. Exh. 5* at page 17. Renaissance concedes that it did not timely file financial statements for the fiscal years 2003 and 2004, as the audits for these years were not completed until after the

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<sup>4</sup> When making its decision in the instant matter, CAB will not consider Dr. Schuh’s report, documents regarding computer lab, science facilities, the waiting list for Renaissance, or documents related to Renaissance’s after school program because this information was previously available or could have been available. Although the record may not be supplemented unless the information sought to be added to the record was previously unavailable, CAB “may consider the charter school plan, annual reports, student performance and employe and community support for the charter school in addition to the record.” 24 P.S. §17-1717-A(d). It is under this provision of the CSL that CAB will consider the 2003 and 2004 fiscal year audit reports of the Charter School.

<sup>5</sup> Section 1719 requires that a charter school application include the financial plan for the charter school and the provisions, which will be made for auditing the charter school under Section 437 of the Public School Code. 24 P.S. § 17-1719-A. Section 437 of the Public School Code requires an annual audit of school accounts. 24 P.S. § 4-437.

hearings before the SRC in this matter concluded. Additionally, audits for the fiscal years 2005, 2006 and 2007 were not completed until May 30, 2008. *See* Renaissance Brief at page 11.<sup>6</sup>

Renaissance's failure to submit timely financial reports not only violates the written terms of its Charter, but also violates audit requirements. *See* 24 P.S. § 17-1719-A; *see also* 24 P.S. § 4-437. Throughout the duration of the Charter at issue, Renaissance has not filed one timely audit report with the District, nor does it appear that Renaissance made serious attempts to do so. In fact, Renaissance failed to hire an independent auditor to undertake audits for the 2003, 2004, 2005 and 2007 financial years until sometime in 2008.<sup>7</sup> *See* July N.T. at 328. Even if CAB were to accept Renaissance's explanation for why the 2003 and 2004 audits were not completed until after August of 2008, Renaissance has failed to provide a satisfactory explanation for why the financial statements for the years 2005, 2006 and 2007 were not completed until May of 2008.<sup>8</sup>

Termination of a charter is appropriate when the charter school has repeatedly failed to conduct and report independent financial audits, as required by the CSL. *See In re: Thurgood Marshall Academy Charter School*, Docket No. CAB 2001-05. Thus, CAB now finds that the SRC acted properly in denying Renaissance's request for renewal of its Charter because

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<sup>6</sup>All citations to the Brief submitted to CAB on behalf of Renaissance Charter School will be referenced as Renaissance Brief at page \_\_\_\_\_. All citations to the Brief submitted to CAB on behalf of the District will be referenced as District Brief at page \_\_\_\_\_.

<sup>7</sup> In January of 2007, Renaissance hired an independent auditor to complete an independent audit for the 2006 financial year. This audit was completed by May 30, 2008 – the same time as the audits for 2005 and 2007. July N.T. at 327-328. Renaissance, however, has provided no explanation of why it hired the independent auditor to undertake an audit for the financial year 2006 before it hired the auditor to do the same for the financial years 2003, 2004 and 2005.

<sup>8</sup>Renaissance argues that, in 2004, it was discovered that the financial data for the years 2002 and 2003 had been corrupted on both the computer and back-up disks and that all of the data had to be retrieved by hand and reconstructed. *See* Renaissance Brief at page 12. The School's Business Manager, however, testified that this financial data had been restored in full by January of 2006. July N.T. at 325-326.



Renaissance failed to meet generally accepted standards of fiscal management or audit requirements. *See* 24 P.S. § 17-1729-A(a)(3).

**Renaissance Committed Material Violations of the Conditions, Standards or Procedures Contained in Its Written Charter**

A charter school is required to comply with the terms and conditions of its charter, as the charter granted by a school district is legally binding on both the local board of school directors of a school district and the charter school's board of trustees. 24 P.S. § 17-1720-A. CAB has previously held that: "[o]nce a charter is granted, the charter school is required to comply with its terms and to achieve the goals specified therein and violation of the material terms of the charter is a proper basis for revocation." *In re: Creative Educational Concepts Charter School*, Docket No. CAB 1999-15 at page 6. Further, because the "charter school application is required by the CSL to be extremely detailed and specifically identify the manner in which the charter school will operate (*see* 24 P.S. § 17-1719-A) and because the information contained in the charter school application eventually becomes part of the charter itself, the information in the charter school application is intrinsic to the charter and is essentially the heart of the charter school." *In re: Thurgood Marshall Academy Charter School*, Docket No. CAB 2001-05 at p. 11.

Renaissance's Charter provides: "[t]he Charter School shall apply as a minimum performance standard for its academic assessments the applicable performance standards associated with the academic components of the No Child Left Behind Act, as well as the applicable Commonwealth of Pennsylvania assessment systems...." Dist. Exh. #5 at page 10. Based upon this provision of the School's Charter, as well as the fact that in four of the last five

years - 2003, 2004, 2005 and 2007 - Renaissance failed to make AYP,<sup>9</sup> Renaissance's request for non-renewal of its Charter was denied.

Renaissance's Charter specifically references the academic standards associated with No Child Left Behind as the minimum performance standards it would follow. Dist. Exh. #5 at page 10. Because AYP is the academic standard tied to the No Child Left Behind Act, CAB agrees with the SRC's conclusion that Renaissance's failure to make AYP in four out of five years of the School's Charter is the equivalent of failing to meet minimum performance standards. Thus, non-renewal of Renaissance's Charter was appropriate. *See* 24 P.S. § 17-1729-A(a)(2).

The District further concluded that Renaissance failed to comply with the terms of its Charter because it failed to deliver a science and technology- based curriculum, as promised in its Charter. Specifically, Renaissance, when asked to describe the *core philosophy* or *underlying purpose* of the Charter School, wrote "The Renaissance Charter School is designed to help students make dramatic gains in their achievement through a rigorous program focused in the Sciences, Technology and Fine Arts." Dist. Exh. #2 at page 1. In its Brief, Renaissance tries to argue that a technology and science based curriculum was a goal of the School, but was not required under the Charter. Renaissance Brief at page 17. This argument is unpersuasive.

In its Charter, Renaissance described its *core philosophy* to be an academic program focusing on science, technology and fine arts and promised to provide "extensive use of technology" and "state of the art laboratories." Dist. Exh. #2 at page 1 and 40 (emphasis added). Renaissance, however, did not have one science laboratory in the building; in fact, the Principal of Renaissance testified that science instruction was done in a "regular classroom" and that there

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<sup>9</sup> Renaissance did make AYP in 2006, however, Renaissance did not make AYP in 2008 and its current status is Corrective Action II. *See* Dist. Exh. # 26 and 27; *see also* [www.http://www.paayp.com/7583\\_default.html](http://www.paayp.com/7583_default.html). The Charter School's 2008 AYP results are also attached to its Motion to Supplement the Record.

was no science lab in the school. July N.T. at 220. The Principal further testified that there was a room “that looks like kind of a lab... [one that] can be transformed into a makeshift laboratory as necessary. July N.T. at 220-221.<sup>10</sup>

Additionally, Renaissance employed two teachers to teach science courses; one teacher was certified in biology and the other not certified at all. July N.T. at 225. Notwithstanding certification requirements for charter school employees, a charter school that boasts a rigorous science-based curriculum should be able to explain why only one of its science teachers is professionally certified to teach those classes that the school had emphasized as its core classes. Renaissance has failed to provide such an explanation. For these reasons, CAB agrees with the District’s conclusion that Renaissance failed to provide a science-based curriculum, as promised in its Charter.

Renaissance also described its curriculum as technology-intensive; Renaissance, however, has failed to provide a technology-based learning environment for its students. Not one classroom in the school has a computer. Instead, the entire school shares one computer lab and around 20 computers. *See* August N.T. at 372. Students at Renaissance do have a technology class and can use the computers before or after school or during lunch time. Providing students with a technology course two times a week and letting students use computers in their spare time, however, does not equate to a technology-based curriculum. *See* July N.T. at 203.

CAB has previously held:

[t]he curriculum of a charter school is essentially a roadmap to the school’s operation, goals, teaching strategies and learning methodology. A charter school’s curriculum provides parents, school districts and the

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<sup>10</sup> Although students at Renaissance do take a science class everyday, one science class per day does not equate to a rigorous science-based curriculum.

general community with an identification of the educational ideology of the school. In fact, parents might rely on the identification of a particular curriculum in their decision to enroll their children.

*In re: Thurgood Marshall Academy Charter School*, Docket No. CAB 2001-05 at p. 11-12.

Thus, Renaissance's failure to provide the science and technology- based curriculum, identified in its Charter as the core philosophy or underlying purpose of the Charter School, constitutes a material violation of the Charter and the SRC's denial of the School's renewal request was proper. *See* 24 P.S. § 17-1729-A(a)(1).

Finally, Renaissance's Charter requires that the School submit an Annual Report to the District, including: (1) insurance declaration pages for required insurance coverages; (2) building code and safety certificates; (3) disciplinary data for students suspended and/or expelled; (4) the schedule of Charter Board meetings for the ensuing school year; (5) all policies and manuals pertaining to students and parents; (6) information related to students admitted outside of the lottery process; (7) a copy of the independent financial audit required under 24 P.S. § 17-1719-A; and (8) any other record requested by the District upon reasonable notification. Dist. Exh. #5 at page 17.

Renaissance concedes that the Annual Reports it filed with the District were incomplete, but argues that the District should have notified the School that its Reports were deficient. Renaissance Brief at page 20. CAB agrees with the District's position that it was not required to remind Renaissance of its requirements under its own Charter or its failure to comply with those requirements. Because the Annual Report and all the documentation provided with it is vital for a chartering district to ensure compliance with the CSL and the applicable charter, the failure to submit complete Annual Reports required by a charter, constitutes a material violation of the charter. Because Renaissance failed to file complete Annual Reports with the District, as

required by its Charter, the SRC properly denied Renaissance's request for renewal of its Charter. *See* 24 P.S. § 17-1729-A(a)(1).

### **Renaissance Violated Provisions of the Charter School Law**

The CLS requires that at least seventy-five percent of the professional staff of a charter school hold appropriate state certification. 24 P.S. § 17-1724-A(a). Renaissance concedes that during the 2007-2008 school year, it failed to comply with this requirement. Renaissance Brief at page 19.<sup>11</sup> Although Renaissance argues that it is currently in compliance with this provision of the law, it has provided no evidence to support its argument. Thus, CAB now finds that the SRC acted properly in denying Renaissance's request for renewal of its charter because Renaissance failed to comply with the CSL. *See* 24 P.S. § 17-1724-A(a).

### **Renaissance Violated Provisions of Law From Which It Is Not Exempt**

Sections 1715 and 1727 of the CSL impose upon a charter school's board of trustees and certain charter school employees the same responsibilities and standards for ethical conduct as are expected of school district board of directors and other public officials. *See* 24 P.S. § 17-1715-A(11); *see also* 24 P.S. § 17-1727-A. As such, the board of trustees of a charter school is subject to the State Ethics Act's financial interest disclosure mandates that all public officials and certain public employees submit statements of financial interest by May 1 of each year. 65 Pa.C.S. § 1104(a).

As CAB has previously held, failure to comply with State Ethics Act requirements is a serious violation and, in conjunction with other serious violations, constitutes grounds for charter revocation. *See In re: Thurgood Marshall Academy Charter School*, Docket No. CAB 2001-05.

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<sup>11</sup> Additionally, at the hearing before CAB, counsel for Renaissance admitted that Renaissance had failed to meet this requirement during multiple school years. *See* CAB Hearing Transcript at page 31.

Renaissance concedes that it failed to meet the requirements of the State Ethics Act, but argues that the School has “otherwise behaved reasonably” and thus, non-renewal of its Charter is not appropriate. *See* Renaissance Brief at page 19 (*citing Renewal Application of the Lincoln Charter School*, Docket No. CAB 2005-03). CAB, however, does not believe that Renaissance otherwise acted reasonably, especially in light of the other serious violations enumerated above. The members of the Board of Trustees of Renaissance are clearly public officials. *See* 24 P.S. §§ 17-1715-A, 17-1727-A. Thus, the State Ethics Act has clearly been violated, as members of the Board of Trustees failed to submit Statements of Financial Interest. This violation, in conjunction with the other serious violations, supports the SRC’s denial of Renaissance’s request for renewal of its charter. *See* 24 P.S. § 17-1729-A(a)(5).

## **V. CONCLUSION**

Because Renaissance has failed to meet generally accepted standards of fiscal management or audit requirements, has committed material violations of the conditions, standards or procedures contained in its written charter, has violated provisions of the Charter School Law and has violated provisions of law from which it is not exempt, CAB finds that the School Reform Commission of the School District of Philadelphia presented substantial evidence to substantiate its reasons for non-renewal of Renaissance’s Charter and makes the following:

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION

STATE CHARTER SCHOOL APPEAL BOARD

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**ORDER**

**AND NOW**, this 14th day of April, 2009 based upon the foregoing and the vote of this Board<sup>12</sup>, the Appeal of the Renaissance Charter School is **DENIED**.

For the State Charter School Appeal Board

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/s/  
Gerald L. Zahorchak, D.Ed.  
Chairman

Date Mailed: 04/14/2009

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<sup>12</sup> At the State Charter School Appeal Board's March 31, 2009 meeting, the appeal was denied by a vote of 0-5 with members Akers, Barker, Green, Shipula, and Zahorchak voting to deny the appeal.